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INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

HEARINGS BEFORE THE SELECT COMMITTEE ON IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD EIGHTY-FIFTH CONGRESS

SECOND SESSION

PURSUANT TO SENATE RESOLUTIONS 74 AND 221, 85TH CONGRESS

MARCH 19, 20, 21, 24, AND 25, 1958

PART 24

Printed for the use of the Select Committee on Improper Activities in the
Labor or Management Field



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INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

WEDNESDAY, MARCH 19, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee met at 10 a. m., pursuant to Senate Resolution 221, agreed to January 29, 1958, in room 357, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Pat McNamara, Democrat, Michigan; Senator Karl E. Mundt, Republican, South Dakota; Senator Carl T. Curtis, Republican, Nebraska.

Present: Robert F. Kennedy, chief counsel; Jerome S. Adlerman, assistant chief counsel; John J. McGovern, assistant counsel; Ruth Young Watt, chief clerk.

The CHAIRMAN. The committee will be in order.

(Members of the committee present at the convening of the session were: Senators McClellan and Curtis.)

The CHAIRMAN. The Chair apologizes for being a few minutes late this morning. I would have been 3 or 4 minutes late except for reasons of having a conference, but my part in this was extended by reason of the fact that I inadvertently went by the other committee room.

So I hurried along and got here as quickly as I could.

Anyway, we may proceed. Mr. Counsel, call the next witness.

Mr. KENNEDY. Mr. Conger.

The CHAIRMAN. You have been previously sworn, Mr. Conger.

TESTIMONY OF LYMAN C. CONGER, ACCOMPANIED BY ELLISON D. SMITH AND WILLIAM F. HOWE, COUNSEL

The CHAIRMAN. I believe, Mr. Conger, you have a prepared statement, did you?

Mr. CONGER. Yes, sir.

The CHAIRMAN. That was submitted in due time, under the rules of the committee. May I inquire if you could simplify your statement and let it be printed in full in the record as your statement, and then discuss the highlights of it.

I will ask you if you will do that to help expedite it and if not, the committee will hear you read the statement.

Mr. CONGER. That will be perfectly satisfactory, sir, to file it.

The CHAIRMAN. It may be printed in full in the record as if you read it, and I am not trying to delete any part of it.

I am giving you the privilege of having it all printed in the record, but I thought then it would expedite things if you just took the highlights and discussed it as you went along, any part you wish to take up.

Mr. CONGER. That will be perfectly satisfactory, sir, and I would like also to submit, if I may, some exhibits.

The CHAIRMAN. Why don't you just go along and point those out in your statement, and then we will make them exhibits as you refer to them.

Mr. CONGER. My name is Lyman C. Conger, and I reside at Kohler, Wis.

I have been employed by Kohler Co. since May 8, 1922—beginning work as an enamel scaler in the enamel shop. After that I was employed successively in the chemical laboratory, the time study department, and the pottery. In 1928 I was admitted to the bar of the Wisconsin State Supreme Court and on December 10 of 1928 I became a member of the Kohler Co. legal department.

Since becoming a member of the legal department I have been in contact with the labor relations of the company.

On February 10, 1944, I became chairman of the Kohler Co. management committee, which is the committee in charge of collective bargaining and labor relations. I have also acted as counsel for Kohler Co. in all litigation arising out of labor relations or the current strike.

Kohler Co.'s principal products are plumbing fixtures and fittings—enameled iron plumbing fixtures such as bath tubs, kitchen sinks and lavatories, vitreous china plumbing fixtures such as lavatories, closet bowls, tanks and urinals, and brass plumbing fittings such as faucets, showers, and wastes.

The company has also produced artillery shells, submarine torpedo tubes, aircraft piston rings, fuses, rotating bands, and other products for the military services.

It also manufactures gasoline engines, gasoline engine driven electric plants and precision controls.

Its principal plant, and at the time the current strike started its only manufacturing plant, is located at Kohler, Wis., which is a village of approximately 1,700 population located about 60 miles north of Milwaukee and 4 miles west of Sheboygan, Wis., in Sheboygan County, Wis. Kohler is incorporated as a village under Wisconsin laws.

Kohler Co. employees come mainly from the county of Sheboygan and municipalities in the county such as Sheboygan, Sheboygan Falls, Plymouth, Oostburg, Cedargrove, and Waldo, and from the neighboring counties of Fond du Lac, Manitowac, Calumet, and Ozaukee, as well as from the village of Kohler.

Since April 5, 1954, Kohler Co., has been subjected to a planned attack using every coercive and illegal weapon that a powerful and ruthless union oligarchy could throw at it—as I will demonstrate and document hereafter.

From the first day of the strike, when the union shut our plant down by an illegal mass picket line, the union has conducted its strike with complete contempt for law and for ordinary common decency.

The peaceful community of Sheboygan County has been subjected to a reign of terror one would have thought possible only behind the Iron Curtain.

The union never voluntarily discontinued any type of illegal conduct. Whenever we were able, by legal action, to compel the union to discontinue one type of unlawful conduct, they promptly switched to another equally illegal and coercive type of conduct.

When they were compelled to discontinue the mass picketing, they promptly switched to vicious mob demonstrating at homes of non-striking employees, terrorizing their wives and children, and to assaults on employees and vandalism to their property.

Employees who dared to exercise their legal right not to strike had their cars dynamited, their homes and cars wrecked with acids, and paint bombs thrown through their windows, shotgun blasts through windows and every conceivable type of terrorism.

This campaign of terrorism has not been limited to the more obvious acts of assault and intimidation. Anonymous telephone calls to workers at their homes, calling them at 5- or 10-minute intervals throughout the night so they could get no rest—publication of the names and addresses in union papers of men who tried to go to work—ostentatious noting of the license numbers of the cars of workers by pickets on the picket lines—are some of the other tactics which have been used to create fear.

Any workman who dared to exercise his right as an American citizen to decide for himself whether or not his wages and working conditions were satisfactory found it impossible to lead anything approaching a normal life. There has not been a day since the strike began when a workman who wanted to go to work could do so without fear of violence to himself, his family, or his property.

Nonstrikers were compelled to forego their recreation activities lest they be set upon by a mob, as happened in the bowling alley riots; they could not attend church or their children attend school without being insulted, subjected to vile epithets, threatened with assault and actually assaulted.

A nonstriker and his wife could not shop in the stores without being harassed and sometimes assaulted. The UAW-CIO by its every action has said to the community, the employees and the company—"We are the law. You must obey our dictates. Law enforcement officers and courts exist only to be subservient to our will."

The picket lines have been moved to the churches, the homes, the schools, the recreation places, the stores, and the streets.

In fact, we have seen the UAW almost completely take over the local law-enforcement agencies to a point where the sheriff announced that he would only escort nonstriking employees up to the picket line but would give them no assistance to get through it, to where a day long riot could occur at a clay boat in full view of the authorities without a single arrest being made. Where Mayor Ploetz of Sheboygan announced that he had given the police orders not to permit Kohler Co. equipment on the dock area or the boat to be unloaded, thus making the police a picket line to prevent unloading of a boat with legitimate cargo.

The sheriff's deputies fraternized with the pickets, played cards with them and were served lunch from the union's lunch wagon.

Over 800 acts of violence and vandalism have occurred against non-strikers with only a few arrests and those only where the perpetrators of the crime made the jurisdictional error of getting outside the city of Sheboygan or out of the direct jurisdiction of the sheriff of Sheboygan County.

And whenever an arrest was made the union came to the defense, provided lawyers and bail bonds. In one case the perpetrators of the violence and vandalism committed the jurisdictional error of crossing into an adjoining county. They were caught and sent to jail. The union succeeded in getting them transferred to the Sheboygan County jail and paid them salaries while they were serving their jail sentences.

Not only that but they were released from jail and sat in the audience during the NLRB hearing, jeering at the intimidating non-strikers who were prospective witnesses until we had to call the attention of the trial examiner to their conduct and he twice had to order it discontinued.

A UAW-CIO International representative by the name of William Vinson made an unprovoked assault on a nonstriker, crushing his chest and inflicting near fatal injuries. UAW lawyers defended him.

When he was convicted by a jury of felonious assault, Emil Mazey, secretary-treasurer of the UAW-CIO, launched an intemperate attack on the judge who had dared to sentence him. This despite the fact that the sentence was less than the maximum for the offense—and the supreme court of Wisconsin later affirmed the sentence in no uncertain language.

Mazey stated that the judge was unfit to serve the people of Sheboygan County and demanded a boycott of a grocery store in which the judge had inherited a financial interest.

Fortunately the people of Sheboygan County resented this attempt by Mazey to take over the processes of justice and his arrogance in assuming to tell them who was and was not fit to serve them and came to the judge's defense with many resolutions supporting him.

After Vinson was sent to prison, the union asked its members to send him Christmas cards because "he came here to help us."

Another imported goon, John Gunaca, participated in another unprovoked assault on a nonstriker, breaking his neck and inflicting injuries from which he never fully recovered prior to his death some months later.

Gunaca is now a fugitive from justice and for nearly 4 years Governor Williams of Michigan has refused to extradite him.

Section 2 of the United States Constitution says that a governor shall upon demand deliver up a fugitive from justice. I call attention to the fact the Constitution says "shall" not "may."

It does not authorize a governor to pass on the guilt or innocence of a fugitive from justice or to pass his opinion upon the courts of another State.

This country cannot long tolerate union leaders who have become so powerful that they can and do take over and control law enforcement and justice. This is a danger at least as great, and in my opinion, greater than any racketeering of union leaders.

I call attention to this: This violence and coercion was not directed primarily at Kohler Co. It was exerted directly on nonstrikers—on employees who chose to exercise their rights as American citizens

to determine for themselves whether or not their wages and working conditions were satisfactory.

Referring to nonstrikers, Emil Mazey said, "They've joined the ranks of the enemy and they ought to be treated as such. During the war when they join the enemy they're shot when convicted."

And in the UAW official strike bulletin they said the "double crossing" activities of nonstrikers "should be dealt with just as one would deal with those who steal money from a home or food from the pantry. There is no difference."

This country cannot submit to the arrogant assumption that any workman who dares to disagree with union leaders is a criminal and a legitimate target for any sort of violence.

The National Labor Relations Act was passed to afford employees a free choice of what organization, if any, they chose to join.

No one today questions the right of an employee to join a union or to go on strike if he chooses. But the law also establishes without question that no union has any right by violence and coercion to force an employee to join a union or to go on strike if he does not choose to do so.

We firmly believe that a majority of our employees did not want to go on strike and did not voluntarily vote to do so. If they had desired to stay out voluntarily all this mass picketing and violence to keep them out would have been unnecessary.

We also believe that a union which has been guilty of the most flagrant and continuous violence, in violation of both Federal and State law, denying employees their basic rights under the Federal Labor Management Relations Act should be denied recourse to the processes of the act, the same as Communists are now barred.

Our bargaining with this union cannot be dissected from the context in which it occurred.

The fact that we were sitting down with union representatives who were directing and controlling every sort of illegal coercion against us and the employees and were threatening more to come cannot be ignored.

It is our firm conviction that to yield to this illegal coercion would be to reward it—that if it is a winning tactic it will be continued.

We cannot tolerate any favored class in this country—a class that holds themselves above the law and entitled to use any methods legal or illegal to achieve their ends.

We have refused to reward this violence and illegal conduct by buying our peace. We will continue to refuse to do so. What has happened at Kohler is significant not because it is unusual but because it is typical—these are the standard tactics of the UAW-CIO.

They boast of being a "militant" union which means that they obtain their ends by violence and coercion.

What has happened to this peaceful community will happen to any community that dares to disagree with the dictates of this all-powerful oligarchy—which has been vested with great power but has not accepted the responsibility until it is compelled by law to do so.

Because the UAW-CIO has made false and misleading statements about the background of Kohler Co. labor relations, I think it is advisable to refer to that background briefly.

Prior to 1933 employees of Kohler Co. were not represented by any labor union. Kohler Co. was a pioneer in many industrial relations innovations which have now become common practice.

It has had group life insurance for its employees since 1917, group health and accident insurance since 1917, and an informal pension plan for so long that I have been unable to find out when it first began.

In 1949, before there were any pension plans in major companies represented by the UAW-CIO, the pension plan was formalized, funded and insured. This pension plan is unique in that it is fully paid for.

Annuities have been bought from a large insurance company covering every dollar of pension which employees have earned for service, past or present, and have been fully paid for. Pension for all past service was fully paid for by Kohler Co.; future pensions are on a contributory basis similar to social security except that the company pays two-thirds of the cost.

Kohler Co. had a voluntary workmen's compensation plan in effect at its own cost 2 years before a workmen's compensation law was enacted by the State of Wisconsin, in 1911. Wisconsin was the second State in the United States to pass a workmen's compensation law.

Over 1,100 people of the Kohler Co. organization have become members of the 25-Year Club, with nearly 600 still actively working.

In 1951 the UAW-CIO conducted an organizing campaign and petitioned for an election by the National Labor Relations Board. The election, held March 27-28, 1951, resulted in victory for the Kohler Workers' Association, an independent union which had represented Kohler employees since 1933.

The National Labor Relations Board certified the Kohler Workers' Association as the bargaining agent, and Kohler Co. made another contract with it.

The UAW-CIO then changed its tactics and attempted to take over the leadership of the Kohler Workers' Association. In this attempt it was successful.

In a meeting April 17, 1952, the general committee of the Kohler Workers' Association voted to affiliate with the UAW-CIO.

Prior to this time it had been the practice of the Kohler Workers' Association to publish the minutes of the general committee meetings in their official newspaper and their constitution provided that the minutes of such meetings should be posted on the KWA bulletin boards.

But after this affiliation vote was passed it was voted to expunge it from the minutes to keep it secret. It was not published. It was not posted on the bulletin boards. It was not made known to the membership.

Ray Majerus, then a Kohler Workers' Association representative—now an international representative for the UAW-CIO—testified that this was done because—

We expunged these from the record because we wanted to be sure the affiliation went through a lot of people who were still sympathetic with the KWA and the company and we wanted to be sure the vote went through so we expunged this from the record so it wouldn't go in the paper * * *

For this testimony I refer you to pages 521-522 of the transcript in NLRB case 18-CA-960, 1114, 1115.

Majerus also testified that he was a member of the UAW-CIO while purporting to act as a KWA representative and was doing everything possible to bring out an affiliation.

On April 21 and 22 illegal work stoppages occurred in the enamel shop. In a dispute over a grievance, notice had been given to the company that the men would not complete their shift if they felt sick unless their grievance was satisfactorily adjusted. On April 21 and 22, in accordance with the scheduled notice, many of the enamellers claimed illness and discontinued work. Strangely enough, all these men became "sick" at exactly the same time and in accordance with the scheduled notice to the company.

They were examined by doctors and those found not to be sick were ordered back to work. Twelve who refused to return to work were discharged.

This action was led by Ray Majerus, now an international representative of the UAW-CIO, but then purporting to act as a KWA representative. Actually he then was a member of the UAW-CIO and the KWA general committee had already voted secretly to affiliate with the UAW-CIO.

The KWA—now the UAW-CIO—brought charges alleging that the discharge of the 12 enamellers was a violation of the National Labor Management Relations Act. On April 12, 1954, the National Labor Relations Board sustained the company's discharge of the 12 enamellers. The case of 1 other employee who had been discharged on October 11, 1951, had been consolidated with the case of the 12 enamellers and the Board ordered him reinstated.

On April 27, 1952, a membership meeting of the KWA was called to vote on "strike and/or affiliation." Although the general committee had already voted to affiliate with the UAW-CIO, the membership was not notified that the meeting was called to implement that action.

A vote was taken at the meeting to affiliate with the UAW-CIO. Two days later, April 29-30, a ballot was taken which resulted in a vote for affiliation.

The constitution of the Kohler Workers' Association provided that it should be an independent self-supporting union. But no attempt was made to amend the constitution in the manner provided for therein. That would have taken too long and, as Majerus put it, they "wanted to be sure the vote went through," so the matter was rushed through before the members had a chance to consider or opposition to voice itself.

Kohler Co. refused to recognize the affiliation procured in such haste and by such methods and stated that it would not recognize any union unless it proved its majority status by an NLRB election.

An election hearing was held by the NLRB. About 3 weeks before the election the UAW-AFL intervened and secured a place on the ballot.

A group that desired to keep the KWA as an independent also secured a place on the ballot.

In an election, consented to by the company, held June 10-11, 1952, by the NLRB, the UAW-CIO received 52.6 percent of the votes cast and was certified by the NLRB.

Kohler Co. expressed its willingness to begin bargaining on a contract but the UAW stated that it was not ready to begin bargaining until it had elected officers and drawn up its contract demands.

It was not until the end of July that the officers were elected and not until late in August that the UAW notified Kohler Co. that it was ready to begin bargaining.

Bargaining was begun on August 21, 1952. The union submitted many demands including demands for a 26 cents per hour wage increase and a union shop.

On February 14, 1953, a strike vote was taken by the UAW and the UAW made extensive strike preparations including setting up a strike headquarters and strike kitchen at a tavern and dance hall just outside the village—the same place used as a strike headquarters and strike kitchen during the current strike.

However, no strike resulted and on February 23, 1953, a contract was signed with the UAW-CIO Local 833 and the International Union UAW.

Emil Mazey, the secretary-treasurer of the International UAW, told the membership:

We have made more progress in this single set of negotiations in improving the contract than you had made previously in 17 years of activity on the part of the old union.

Harvey Kitzman, regional director of the international, told the membership that the contract contained the most "improvements" of any first contract he had ever helped to negotiate.

Just in case there is any question, this is the same union that now charges that the company never accepted the union or was willing to bargain with them in good faith.

Kohler Co. granted a wage increase of 12 cents per hour which the union characterized as "the greatest wage increase in all Kohler history" and fringe benefit increases estimated by the union at 6 cents per hour.

The contract also contained a provision allowing reopening every quarter on wages. On May 23, 1953, at the earliest opportunity, the union reopened on wages demanding a wage increase of 14 cents per hour.

They explained this demand by stating that they had asked for 26 cents on the original negotiations but had accepted 12 cents, so the company still owed them 14 cents.

At the same time the question of wages and hours in the enamel shop, which had been left for later determination by the contract, was negotiated.

The company offered a general wage increase of 3 cents per hour plus wage adjustments in the enamel shop.

On July 25, 1953, a strike vote was taken at a union membership meeting and the result was announced as 91.8 percent voting to authorize a strike and to reject the company's proposals.

The company declined to make further concessions and another vote was taken at a membership meeting held August 16, 1953. The result was announced as a vote of 88.2 percent in favor of acceptance of the same company proposal which the union had previously rejected.

On August 20, 1953, the UAW accepted the Kohler Co. proposal on the general wage increase and also accepted the company's proposals on wages and hours in the enamel shop.

On December 12, 1953, Kohler Co. wrote the UAW, calling attention to the fact that the contract was expiring on March 1, 1954, and offer-

ing to meet and confer for the purpose of negotiating a new contract.

This was the 60-day notice required by section 8 (d) (1) of the National Labor Relations Act to prevent a contract from automatically extending itself and it was given at this time in the hope that negotiations could be begun and a new contract arrived at before the old contract expired.

Because the union has falsely claimed that the strike was brought about by the company's cancellation of the contract, I call attention to the fact that this notice stated that the contract would be continued in full force and effect until March 1, 1954, its expiration date.

The union gave a similar notice to the company on December 14, 1953, but accompanied it with a notice that it had advised the Federal and State Mediation Services of the existence of a labor dispute. Thus the union notified the Conciliation Service of the existence of a dispute before it had even made any proposals to the company or received any from it.

This obviously was to clear the way for a strike. Under section 8 (d) (3) of the act this notice was not required until 30 days after the 60-day notice and then only providing no agreement had been reached.

On January 15 Kohler Co. wrote the UAW calling attention to the nearing expiration date of the contract, stating that the company was ready to exchange proposals and suggesting that negotiations begin so as to avoid the necessity of "last minute" negotiations under the pressure of an imminent expiration date.

On January 20, 1954, the union responded, stating that they did not have their contract proposals ready.

On January 25, 1954, contract proposals were exchanged.

I am submitting as an exhibit a copy of the company's initial contract proposal, together with later contract proposals. In all the company made four complete contract proposals as well as many written proposals on particular sections of the contract.

The company at all times had on the table 1, and at most times 2, contract proposals which it was ready and willing to sign.

I am also submitting as an exhibit a copy of the UAW-CIO's proposal.

In summary the union asked for extensive changes, proposing changes in all except 3 out of the 18 articles of the contract and all except 30 out of the 78 sections.

It demanded a union shop, a general wage increase of 20 cents per hour plus an additional 10 cents per hour for so-called "skilled employees," that the company discontinue its pension plan and substitute the UAW standard plan, increases in group insurance, changes in the seniority provisions of the contract, and a paid lunch period in the enamel shop.

The company proposed few changes in the contract. There had been frequent disagreements throughout the year on the interpretation of the arbitration provisions of the contract and, to some extent seniority, and the company proposed to clarify these provisions so that there could be no misunderstanding as to what they meant.

In view of the fact that the company's position on arbitration has been widely misrepresented by the UAW, I would like to state briefly.

We do not oppose all arbitration. The 1953 contract contained an arbitration provision and we were willing to have one in any contract.

We agreed to arbitrate the interpretation and application of any contract we might make—in other words, to give an arbitrator all the authority that a judge of a court of law would have.

But we do not agree to arbitrate the terms of a contract—to let someone who has no knowledge of our business or interest in it write a contract for us to live under. Nor will we agree to turn over to any one not having any knowledge of the business or interest in its success the authority to make management decisions on matters vital to the conduct of the business while we remain responsible for the successful operation of the business.

Negotiations were begun on February 2, 1954, and continued practically daily, except Saturday and Sunday, until March 3.

During this period the company made numerous concessions in contract provisions and incorporated changes made up to that date in a new contract proposal dated February 15, 1954.

On February 23 the union proposed extension of the contract for 1 month.

On February 25 the company responded calling attention to its earlier efforts to get negotiations going so that they would not be under the pressure of an imminent expiration date and offering to extend the contract for a year without change.

The company specifically stated that such an extension would include the quarterly reopening on wages. Consequently, acceptance of that proposal would not have required the union to agree to freezing wages for a year.

I mention this incident because the union has falsely stated that the company refused to renew the contract where the fact is that it offered to renew it for a whole year.

This is also the conclusive answer to the union's charge that the company was trying to take away the gains it had previously made. Obviously those gains could not have been taken away if the contract was renewed for a year without change.

On February 26, 1954, the company offered a 3 cents per hour wage increase, making a total of 18 cents granted or offered in a year's time.

On February 28, 1954, a UAW membership meeting authorized the union officials to conduct a strike vote.

On March 2, 1954, the company notified the union that its contract with the Government for the manufacture of artillery shells had been canceled by the Government effective June 30, and that temporary employees—that is, employees who were hired for that specific contract and had been notified when they were hired that their employment would be only for the duration of that contract—would be released on that date.

Later during the strike we released 53 of these employees in accordance with this notice which the union has charged was an unfair labor practice.

On March 3, 1954, Federal Conciliator James Despins entered the negotiations.

Despite the union's charge that Kohler Co. refused to mediate, the fact is that every negotiating meeting thereafter was with the participation of one or more Federal mediators. State and volunteer mediators also participated in some of the meetings.

On March 14, 1954, a strike vote was taken at a UAW membership meeting.

The result was announced as 88.1 percent in favor of a strike. No announcement was ever made of the number voting for a strike.

On March 17, 1954, a three-man panel consisting of Federal mediators, Messrs. Fleshman, Burts, and Despina, entered the negotiations and a panel of Federal mediators participated in all subsequent negotiation meetings.

The union began strike preparations, setting up a strike headquarters and strike kitchen at the same tavern and dance hall that they had engaged after the 1953 strike vote, importing personnel from Detroit and elsewhere, bringing in sound trucks and similar activity.

The company also made strike preparations. It brought food, cots, etc., into the plant to house and feed the supervisory personnel necessary to protect the plant and to provide for the continuance of necessary functions in the event of a strike.

The union has attempted to throw up a smokescreen about these preparations to try to divert attention from its sorry record of coercion and violence.

We make no secret of the fact that we were prepared to protect the plant and the persons in it in the event of an attack on it, such as occurred at the Shakespeare plant in Kalamazoo, Mich. We were well aware of the record of the UAW for violence and the threats that they had made during the negotiating meetings.

In view of what happened later no one can say that we were unjustified in apprehending that the UAW would conduct its strike by violence and illegal methods and that we could look for no protection from the sheriff.

Everyone has the right to protect his person and property from a criminal attack—and this is particularly so where law enforcement officers are unable or unwilling to afford such protection.

We had several shotguns and some tear gas for this purpose.

In view of the union smokescreen regarding this, I wish to call attention to the following facts:

1. None of this material was ever used although we had a mass picket line completely blockading all entrances for 54 days. It was for the purpose of protection of the plant and people in it, and would have been used only if necessary for that purpose.

2. No one was ever threatened with its use. It was never exhibited to any picket.

The first public knowledge that we had this material was when the attorney for the union at the WERB hearing—in a fishing expedition for something that could be used as union propaganda to distract from the evidence of the union's illegal conduct—asked Mr. Herbert V. Kohler, president of Kohler Co., if the company had any tear gas and Mr. Kohler replied that he did not know but thought that we might have.

3. There was nothing illegal about Kohler Co.'s possession of this material.

The union made strident demands of both the district attorney and the State attorney general that they prosecute Kohler Co.

No law violation was involved and these officials did not allow their officers to be used as a tool for union propaganda.

The tear gas was at all times under the control of the plant manager, Mr. E. J. Biever, who was a duly appointed deputy sheriff and had been for many years.

On May 21, at the height of the violence, the sheriff canceled Mr. Biever's authorization as a deputy, as well as other deputy cards issued to members of the Kohler Co. organization.

The tear gas which we had in our possession was then turned over to the chief of police of the village of Kohler.

It is interesting to note that, although the sheriff canceled the deputy cards of members of the Kohler Co. organization, he took no similar action with regard to union members or strikers who were deputies—in fact, I am advised that he had one of the strikers acting as dispatcher at his office during much of the strike.

Also, since 1942, we have had uniformed and armed guards. These were originally requested by the Army security officers because of our war contracts and we have continued them since.

The strike began on April 5, 1954.

On April 5, we put into effect the 3-cent wage offer which had been proposed to and rejected by the union.

At this time we had engaged in 23 bargaining meetings including 8 meetings with Federal mediators—a total of over 41 hours. We had submitted two complete contract proposals and had offered to renew the old contract for a year without change.

From the first hour the UAW completely blockaded all entrances to the plant with a mass picket line.

The pickets were led by outsiders imported from Detroit and elsewhere. Robert Burkhart, a UAW-CIO international representative who had charge of the Kohler situation since the previous September, has testified that—

We tried to make it a point to see to it that there would be at least one person, an international representative or someone with trade union experience at each of the gates of the plant during the period of the strike. During the early period of the strike I should say (NLRB transcript, p. 4652).

The first morning even some office employees were barred from entrance but were finally allowed to enter after considerable delay. The union announced in its daily strike bulletin that it was "official policy" not to interfere with office employees.

Production employees who tried to enter the plant were blocked and refused entrance.

Trucks attempting to enter the plant were blocked by the picket line and turned back. Whenever employees approached the lines the pickets, led by the outside goons, would leave the picket line and intercept them, blocking their passage and making it impossible to advance further.

The union continued its mass picketing and no production workers were able to enter the plant except a few who got in at night through the back of the plant.

The union barred even business visitors to the office and persons desiring to go to the Kohler Co. medical department for treatment unless they had a pass signed by a union official. One nonstriker who asked for such a pass to enter the medical department for treatment was refused it on the ground that he was a nonstriker.

One employee, Dale Oostdyk, who attempted to enter the plant at night through a gate some distance from the highway, was captured

by pickets, beaten severely, dragged down to strike headquarters, and held incommunicado for half an hour while officials of the union tried to pressure him into joining the union.

Because it was night he was unable to identify his actual captors.

Because the sheriff was making no attempt to enforce law and order we hired a firm of private detectives to try to ascertain who was responsible for the kidnaping. We have hired other detectives to try to identify the perpetrators of the vandalism and to assist us in getting evidence to defend the union's charges against us before the NLRB.

We take the position that we have a right to employ a detective to catch a criminal, particularly when law enforcement officers are tolerating an open reign of terror. And we have a right to use one to obtain evidence needed in the trial of a suit.

On April 12 a group of nonstrikers made an attempt to enter the plant but were repulsed.

Whenever any nonstrikers would approach the picket line to enter, the pickets—led by union officials and imported goons would go out to meet them and block their path while those who remained would lock arms, stop marching and completely blockade the entrance. Shouts of "hold that line," "nobody gets in," "we shall not be moved," "yellow scab," and similar epithets would arise from the picket line or be chanted in concert.

Employees attempting to enter the plant were slugged, kneed in the groin, kicked, pushed, and threatened. No one except supervisory or office employees or those having a pass signed by a union official was able to pass through the picket line.

Whenever an attempt was made to enter a gate, cars would drive up with pickets wearing arm bands marked "flying squadron" to reinforce the pickets at that gate.

The village police ordered the picket line to open and permit the nonstrikers to enter but their orders were ignored and they were unable to open the picket lines sufficiently to permit the nonstrikers to enter.

Nonstrikers who asked the sheriff or his deputies for assistance to pass through the line were told that he would take them up to the line but would not make any attempt to help them get through. They were advised to go home and not make trouble.

The union boasted that the pickets numbered more than 2,000.

The regular village police force numbered four men and was manifestly inadequate to cope with such a mob.

Prior to the strike the village had deputized some additional—part-time policemen—they requested the company to give them a leave of absence for as long as they were needed during the strike.

We did so.

The union professes to find something reprehensible about this. It seems in their view that a small village invaded by a lawless mob may take no steps to protect itself. It may not deputize citizens and residents of the village to protect persons and property in the village but must submit supinely to having a lawless mob take over.

No one has yet pointed out—or can point out—anything that these special policemen did that they should not have done.

Certainly they did not restrict any legal right of a striker or a picket. In fact they did not even prevent the illegal mass picket line which kept the plant in a state of seige for 54 days.

This mass picketing proceeded according to plan. The strike committee met every day to direct the strategy of the strike.

Emil Mazey, secretary-treasurer and acting president of the International UAW-CIO, observed the character of the picketing, made speeches to the pickets and toured the picket lines.

Other union officials who were present and participating in the mass picketing, some while nonstrikers were attempting to enter, were:

Harvey Kitzman, regional director, UAW-CIO.

Frank Sahorske, assistant regional director, UAW-CIO.

Jess Ferrazza, administrative assistant to Emil Mazey.

Robert Burkart, international representative in charge for the international.

Donald Rand, international representative, UAW-CIO.

Ray Majerus, international representative, UAW-CIO.

William Vinson, international representative, UAW-CIO.

Charles Schultz, State president, UAW-CIO.

Clayton Carpenter, assistant educational director, UAW-CIO.

David Rabinovitz, attorney, UAW-CIO.

John Gunaca, international man sent from Detroit.

Joseph Burns, international man sent from Detroit.

James Fiore, international man sent from Detroit.

Boyce Land, international man sent from Detroit.

Dan Prested, international man sent from Detroit.

Frank Stallons, international man sent from Kenosha.

Frank Wallick, local publicity director for the UAW-CIO, and many others whom we were unable to identify; as well as local officials:

Allan Graskamp, president, Local 833, UAW-CIO.

Arthur Bauer, vice president, Local 833, UAW-CIO.

Egbert Kohlhagen, secretary, Local 833, UAW-CIO.

John Konec, chief picket captain, Local 833, UAW-CIO.

Curtiss Nack, sergeant-at-arms, Local 833, UAW-CIO.

William Rawling, chief steward, Local 833, UAW-CIO.

Ed Kalupa, member strike committee, Local 833, UAW-CIO.

Gordon Majerus, member strike committee, Local 833, UAW-CIO.

Elmer Oskey, member strike committee, local 833, UAW-CIO.

Among those who have testified to attempts to enter the plant and to being blocked by the pickets, are Harold Jacobs and Alice Tracey, Jerome Bersch, Rene Fedeswisch, and many others.

These photographs, together with many others, have been in the hands of the committee's investigative staff for several months.

International union officers and officials and local union officials are identified on those photographs.

The movies of the mass picketing and the violence which occurred when nonstrikers attempted to enter the plant have been shown here.

The strikers even threatened nonstrikers who were across the street from the picket line.

My assistant, Mr. E. J. Hammer, was ordered off the street by Jess Ferrazza, administrative assistant to Emil Mazey, with some very vile and threatening language.

On April 12, a large group of nonstriking employees attempted to enter the plant but were repulsed by the mass picket line led by the outsiders imported from Detroit.

Prominent in preventing nonstrikers from entering were Jess Ferazza, administrative assistant to Emil Mazey, Harvey Kitzman, regional director of the UAW-CIO, William Vionson, international representative, UAW-CIO, later sentenced to a prison term for felonious assault, Donald Rand, international representative, UAW-CIO, Robert Burkart, international representative UAW-CIO, who had been sent in the September previous to take charge of the Kohler union, Frank Sahorske, assistant regional director, UAW-CIO, James Fiore sent from Detroit. All these have been identified on the photographs that I have submitted.

Some of the nonstrikers who have tried to enter the plant have told me that they recognized few if any Kohler Co. employees among the group that stopped them, and I and others who have viewed the photographs have found that there were only a few actual Kohler employees in the groups which prevented nonstrikers from going to work. This was largely the work of outsiders.

Nonstrikers who attempted to enter the plant on this date have testified before the Wisconsin Employment Relations Board and the NLRB and transcripts of such testimony are in the hands of the committee staff.

On April 15, 1954, we filed complaint with the Wisconsin Employment Relations Board against the mass picketing, and other illegal acts.

On April 19, another group of nonstriking employees made an attempt to enter the plant but were repulsed, again largely by outsiders who were not and never had been Kohler Co. employees.

On April 26, a group of nonstrikers attempted to enter the plant in their cars. They were intercepted by the pickets, their path blocked by a solid mass of pickets and their forward progress stopped. Threats were made to overturn their cars. A union station wagon was moved across the driveway to block it and then disabled so that it could not be moved under its own power. Pickets resisted the attempts of the village police to move the station wagon out of the driveway.

Again the outsiders were most prominent, Robert Burkart, international representative, John Gunaca, who was sent from Detroit and is now a fugitive from justice on a charge of assault with intent to do great bodily harm, Frank Sahorske, assistant regional director, UAW-CIO, Ray Majerus, international representative, UAW-CIO, are shown by the photographs that I have submitted to have been in the forefront of this activity. Dan Prested, another outsider from Detroit was arrested for his activities on this occasion and found guilty of preventing persons from engaging in lawful work by violence and coercion.

On April 27, 1954, the union petitioned the Federal district court for an injunction to prevent the Wisconsin Employment Relations Board and Kohler Co. from proceeding on Kohler Co.'s complaint. Their position was that the Federal statute had preempted all State statutes and that the State has no right to control violence and mob action within its borders if such breach of the peace was committed by a union.

It is interesting to note that this case was not decided until May 19, 1955. This is a long time for an action for a temporary injunction to be pending.

And all this time the union was advising its members that the Wisconsin Employment Relations Board had no jurisdiction and that its orders were a nullity.

An argument was held on this petition on May 2, 1954. Judge Tehan allowed until May 11 to file briefs.

On May 4 the Wisconsin Employment Relations Board began hearing on the company's complaint.

The union asked for a postponement stating that it needed time to prepare briefs in the Federal court action and that one of its attorneys was sick.

The board granted the postponement on condition that the union conduct its picketing legally under certain prescribed conditions, that is, not to interfere with entrance to or egress from the plant, limit the number of pickets at each gate and certain other conditions.

The union asked time to consider whether or not to accept these conditions and asked what the company's position as to resumption of bargaining would be in case the union accepted them.

The company, from the first day of the strike took the position that it would not bargain under illegal duress, that we would not negotiate while the union was shutting our plant down by an illegal mass picket line.

We are willing to bargain with any union that represents our employees, but we will not bargain with a gun at our head.

Nor will we make any concessions merely to get the union to obey the law.

To make such concessions would be to reward illegal conduct and to encourage its repetition whenever the union wanted something that an employer was unwilling to grant.

We stated that if the union lived up to the conditions prescribed by the board we would resume bargaining.

The chairman of the board then asked if we would assume that the union would live up to the conditions if they agreed to them and we responded that we would. The date of Friday, May 7, was set for the resumption of negotiations.

The union did open up the picket lines and employees who desired to return to work were able to do so, although not without some interference.

We met with the union and the Federal mediators on May 7. At the conclusion of the day the union demanded that we meet again on Saturday and Sunday.

There had been no previous negotiating meetings on Saturday or Sunday.

We stated that we had to use Saturday and Sunday to prepare briefs in the Federal court action, the same reason that the union had given for asking postponement of the WERB hearing, but that we would be willing to resume negotiations on Monday.

The union held a mass meeting on Sunday, May 9, and announced the decision of the union's executive committee to close the lines and resume the former type of picketing. Graskamp, local union president announced that the "gloves are off."

Burkart told the membership that if the company was successful in getting an injunction they would be compelled to change their tactics. He referred to nonstrikers as "germs" and in other derogatory terms and advised the members to "do everything possible to stop them before they get to the picket lines."

The union made a tape recording of a portion of these proceedings and played it that night over their radio program. Burkart has testified here as to those statements.

Right after this meeting the picket lines were again closed and the mass picketing resumed.

If there can be any doubt that this mass picketing was planned and controlled by the union this episode should settle it. They clearly demonstrated their ability to turn the mass picketing on and off at will.

Ostensibly the union took this action because of our refusal to negotiate on Saturday and Sunday. Actually they took it because they were alarmed at the number of employees who returned to work as soon as they were able to do so.

On May 10, a group of nonstrikers again attempted to enter the plant and were again repulsed. Prominent in the mass picket line which prevented the nonstrikers from entering were Jess Ferrazza, administrative assistant to Emil Mazey; Frank Sahorske, assistant regional director, UAW; Robert Burkart, international representative assigned to the Kohler local; William Vinson, international representative later convicted of assault with intent to do great bodily harm; and John Gunaca, now a fugitive from justice on a charge of assault with intent to do great bodily harm.

These individuals are all identified on the photographs which I have submitted.

Since the union had resumed its illegal mass picketing we refused to resume negotiations, and requested the WERB to resume hearings on our complaint.

On May 12 and 13, the WERB held hearings and took testimony. The hearing was interrupted on May 14 by arguments in Federal Judge Tehan's court on the union's suit for an injunction. The hearing was resumed on May 14, and hearings were also held on May 18 and 19.

A transcript of the testimony taken in this case was made available to the staff of this committee several months ago.

On May 17, 1954, another group of nonstrikers made an attempt to enter the plant and were again repulsed. Two UAW-international representatives, William Vinson and Joseph Burns, were arrested. Burns was found guilty of disorderly conduct and Vinson of disorderly conduct and use of force to prevent pursuit of lawful employment.

On May 21, 1954, the Wisconsin Employment Relations Board entered an interlocutory order ordering the union to cease and desist from mass picketing and other specified illegal acts. The board also limited the number of pickets per gate and specified that there should be no interference with entrance and egress to the plant and specified that there should be a 30-foot area at each entrance to the plant over which picketing would not be permitted at any time.

The union promptly announced that the WERB had no jurisdiction, basing their claim on the doctrine of Federal preemption and pointing to their injunction suit in Judge Tehan's court, and stated that they would ignore the order. Our opinion, later confirmed by the Supreme Court of the United States, was that the State had jurisdiction as it is the natural guardian of the public against violence and breaches of the peace. On May 24, 1954, a large group of non-strikers, in reliance on the order of the WERB, attempted to enter the plant, but were again repulsed.

Again leading the action and identified on the photographs which I have submitted are Jess Ferrazza, administrative assistant to Emil Maze; Robert Burkart, international representative assigned to the Kohler local; Frank Sahorske, assistant regional director, UAW; Donald Rand, international representative, UAW; Joseph Burns, international representative, UAW; William Vinson, international representative, UAW; Ray Majorus, international representative, UAW; Frank Stallons and James Fiori, international representatives, and also Local 833 UAW officials Allan Graskamp, president; John Konec, chief picket captain; Curtis Nack, sergeant at arms, and Elmer Oskey, Ed Kalupa, and Gordon Majorus, members of the strike committee.

As a result of this episode Stallons and a local union member, Gordon Peryam, were arrested and found guilty of disorderly conduct.

After the nonstrikers were repulsed the sheriff's deputies had lunch with the pickets. This is shown on one of the photographs that I have submitted.

On May 25, another group of nonstrikers made an attempt to enter the plant but were again repulsed.

The WERB brought an action in Sheboygan County Circuit Court for an injunction enforcing its order.

When the matter came to a hearing on May 28, 1954, the union came in and promised to comply with the order, and on this promise the hearing was adjourned from day to day.

The union did open the picket lines and employees began to return to work. This again showed the control of the union over the mass picketing and their ability to turn it off at will.

On June 1, 1954, we resumed negotiations with the union with a panel of three Federal mediators participating and the chairman of the Wisconsin Employment Relations Board participating in some of the meetings.

These negotiations continued without interruption until June 29.

During this series of negotiations the company made important additional concessions in seniority—upon which agreement was reached at one time—an agreement which later became disagreement when the union insisted on a change in a clause of the old contract which they had formerly agreed to renew. The company also made concessions in group hospitalization insurance. It agreed to make the maximum under the union's proposed pension plan the minimum under the existing Kohler pension plan—at its own sole cost. It agreed to many other changes in contract language.

In fact, of the issues testified by union representatives in the NLRB proceedings to be the seven major issues—namely, union security, seniority, pensions, insurance, arbitration, wages, and paid lunch time

in the enamel shop—the company made concessions on all of them except one—union security.

We have been and we are opposed to compulsory unionism in any form. It is the right of every American citizen to determine for himself what organization he shall belong to and how he will bargain for the reward for his efforts. No one, union, management, or both together, has a right to take this decision away from him.

During the June negotiations, assaults on nonstriking employees and vandalism to their property reached major proportions.

When we protested to the union, Jess Ferrazza, an administrative assistant to Emil Mazey, stated, "We haven't gone into high gear yet" and Harvey Kitzman, regional director, stated "I hope you will never go the route of hiring new employees because then the trouble really will start."

On June 18, International Representative William Vinson made an unprovoked assault on a nonstriker, James Van Owerkirk—a much smaller man—crushing his chest and inflicting injuries which resulted in near death and several weeks' hospitalization.

When Vinson was later tried for this offense the union came to his defense and provided lawyers to defend him. When he was convicted by a jury of assault with intent to do great bodily harm and sentenced to a 1-to-2-year term in prison, Emil Mazey made a vituperative verbal assault on the judge who had dared to sentence Vinson, declaring that the judge was unfit to serve the people of Sheboygan County and demanding a boycott of a grocery store in which the judge had inherited a financial interest.

The sentence imposed by the judge was less than the maximum for the offense, and was sustained by the Supreme Court of Wisconsin in a vigorous opinion.

On June 23, we warned the union that if this type of conduct continued, we would discontinue bargaining. We also told them that bargaining had reached an impasse and that we had reached the limit of our concessions.

We told them that they could not disavow responsibility for Vinson's actions since he was an international representative.

We continued these warnings and on June 29, after a shotgun blast through the window of a nonstriker, Harold Curtis, the night before we broke off negotiations.

I have placed in the hands of the staff of this committee a chronological list of the acts of violence and vandalism with dates and names of the victims. Affidavits concerning these episodes also have been placed in the hands of the committee staff.

There have been over 800 of these acts of violence and vandalism directed at nonstrikers. Some of our nonstriking employees have been subjected to repeated attacks of this nature.

These acts include dynamiting of seven automobiles, paint bombings, assaults, smearing of automobiles with acid or paint remover, shotgun blasts through windows, slashing of tires and scattering of nails in company driveways and public roads to puncture tires, destroying the contents of a cottage with sulfuric acid, smashing windows of homes and automobiles with rocks, putting sand and sugar in the gasoline tanks of automobiles, smearing human excrement on the upholstery and steering wheels of automobiles, destroying flowers and shrubbery, and similar cowardly attacks under cover of darkness.

On July 4, 1954, a nonstriking employee, William Bersch, Jr., who was working part time in a filling station, was assaulted and knocked unconscious by three assailants. His father, William Bersch, Sr., who came to his rescue, was also assaulted and suffered a broken neck and other injuries from which he never fully recovered prior to his death some months later.

William Bersch has identified two of his assailants as John Gunaca and William Vrcovic, a striker. He was unable to identify the third assailant.

Gunaca fled to Michigan and Governor Williams still refuses to extradite him.

The sheriff of Sheboygan County made no arrests and professed inability to apprehend the perpetrators of any of these acts.

The only arrests made were made by law-enforcement officers of adjoining counties and in some of the small municipalities in the county which had their own police forces. However, when one non-striker, William Banonse, was driven by harassment to an act of retaliation, he was promptly apprehended and arrested.

It is significant that the municipalities of Kohler and Plymouth were free of these acts of vandalism and the city of Sheboygan Falls had only a few which ceased promptly where the perpetrators of one of these acts were arrested and convicted.

These acts also have ceased in Sheboygan County since the election of a new sheriff who was elected despite the union's vigorous opposition. The former sheriff was enthusiastically supported for reelection by the union.

To lessen the intimidatory effect of this vandalism we announced that we would reimburse nonstrikers for such vandalism damage which was not covered by insurance. We made reimbursement of such damage in the amount of over \$21,000. How much more vandalism damage was covered by insurance we do not know.

These acts also have ceased in the city of Sheboygan since the election of a new mayor. The former mayor, Ploetz, was elected by the union's support and enthusiastically supported for reelection by the union.

On October 16, 1954, four strikers, Franklyn Schroeder, Charles Writz, William Retella, and Douglas Strebe, were arrested in the neighboring county of Calumet for assaulting a nonstriker and damaging his property.

The union came to their defense, and provided bail bonds and lawyers. When they were convicted and sentenced to jail, the union lawyer arranged for their transfer to the Sheboygan County jail. The union paid them \$50 a week while they were in jail and arranged for their release during the daytime, ostensibly to do office work for the union.

Actually they sat in the courtroom during the NLRB hearing jeering at and threatening nonstrikers who were prospective witnesses until we had to ask the trial examiner to intervene and put an end to it.

Although there was no complete blocking of entrance to the plant nonstriking employees were subjected to continual harassment when they entered. Their cars were scratched, windows broken with rocks, and cars defaced by having acid or paint remover thrown on them.

The sheriff's deputies in charge never seemed to be able to see any of these incidents although they were very zealous to spot any possible law violations by nonstrikers such as expired license plates, et cetera.

The order of the WERB provided that a 30-foot space should be left in each driveway over which picketing should not occur.

The UAW proceeded to interpret this order as depriving the company of the use of all except 30 feet of its driveway. They placed barricades and cans filled with rocks so as to block all except 30 feet of the driveway. This 30 feet was placed at an angle to the driveway so that it was necessary for a car to come to practically a complete stop in order to negotiate the turn.

The pickets ostentatiously noted the license numbers of the cars and took pictures of the occupants.

Since the intimidatory effect of this may not be apparent, I refer to the November 11, 1954, issue of the Kohlerian, the union's official newspaper stating that Max Wimmer had returned to work and giving his address.

Thereafter Max Wimmer was the victim of the following acts of vandalism:

November 15, 1954—Two glass jars thrown through the windows of his home.

November 26, 1954—Jar filled with paint thrown through the window of his home.

November 15, 1955—His garage broken into, his car smeared with paint and scratched, and the interior smeared with human excrement.

Photographs of the damage to the car are included in the photographs that I have submitted and affidavits covering these incidents are in the hands of the committee staff.

The climax, so far as the sheriff's deputies were concerned, came when the sheriff's deputies arrested a nonstriker for driving through the blockade illegally erected by the pickets.

I wrote the sheriff demanding an end to such proceedings and warning him that we would take legal action to compel him to remove his deputies if such actions continued.

On July 12, 1954, the union filed charges against the company before the NLRB. It is noteworthy that no such charges were filed until after the mass picketing had been prohibited and the campaign of violence and vandalism was obviously failing although the charges were based on the company's alleged failure to bargain before the strike and other matters that were well known to them before the strike.

It was not until their illegal tactics had failed that they sought a legal remedy.

The reason that they took such action at that time is also obvious. The union's publications reported that their "secret agents" in the plant were handing in reports that a new independent union was being formed and the union feared that this independent union would ask for an election.

The pendency of an NLRB proceeding usually bars an election to determine a majority and after filing their charges the union announced that any election to determine a majority was now barred.

The proceeding was stalled and dragged out by the union as long as possible and every time it seemed about to conclude they filed new

charges to keep it going. They filed five different sets of amended charges, all, in our opinion, to keep the proceeding pending as a bar to an election.

The union loudly complains about the delay in the NLRB proceedings but they neglect to state that it was their own actions in repeatedly amending and changing their complaint that was responsible for the delay.

In late July the union wrote Mr. H. V. Kohler requesting resumption of negotiations. We agreed.

Negotiations were begun on August 4 and continued until August 13. Federal mediators suggested that the union submit its current demands in writing and they stated their demands in a letter to Mr. H. V. Kohler dated August 10.

This was the first written counterproposal submitted by the union since their original contract demands although the company had by that time submitted three separate contract proposals as well as offering to renew the contract for a year without change.

In summary the union reduced their wage demands from 20 cents per hour plus an additional 10 cents per hour for so-called skilled workers to 10 cents per hour plus 5 cents per hour for skilled workers and their union security demand from a union shop to maintenance of membership.

The company responded by Mr. Herbert V. Kohler's letter of August 13.

Meanwhile mob demonstrations at the homes of nonstrikers had begun about August 4. Nonstriking workers returning home from work were met by mobs of 200 to 500 shouting epithets and threats and intimidating them and their families. The union in its publications did everything possible to stimulate these mob demonstrations and boasted that after these mob assaults the "scabs were no longer showing up for work."

Photographs of some of these mobs are included in the photographs which I have submitted.

When the company letter of August 13 was delivered to the union, union spokesmen stated that they would not accept a contract on that basis and Allan Grasskamp, president of the local union stated, "If that's all the company has to offer, the hinges on the door are in good working order." Company representatives then left the meeting.

The mob demonstrations at the homes of nonstriking employees continued.

On August 19 we submitted evidence of these violations of its order to the WERB and requested it to take action to enforce its order.

The WERB petitioned the Sheboygan County Circuit Court for an injunction to enforce its order and the mob demonstrations stopped.

On September 1, 1954, Judge Murphy, who had been called in to hear the case, granted the petition of the WERB and issued an injunction enforcing the Board's order.

After pronouncing his judgment Judge Murphy offered his services as a mediator and the offer was accepted by both parties.

Several negotiating meetings were held in September with Judge Murphy, the Federal conciliator, and, at times, the chairman of the Wisconsin Employment Relations Board participating, but no settlement resulted.

Beginning about October 1 and increasing in intensity thereafter, the union began a campaign to bar prospective job applicants from entering the company's employment office.

Persons approaching the employment office had their progress blocked by a solid mass of pickets, were bumped, shoved, kicked, tripped, threatened, vilified, and spit upon with tobacco juice. (Photographs of this employment office picketing are included in the photographs which I have submitted.)

We demanded enforcement of the injunction and the WERB commenced a contempt action in Sheboygan County Circuit Court.

On May 25, 1955, Judge Boileau, who had been called in to hear the case, found local 833, UAW-CIO, and 16 individual strikers in contempt of court for violation of the injunction. Later, on June 29, 1956, the judge assessed fines against them and sent one to jail.

All this while the union, in its publications and on its radio program, had been trying to inflame hatred against the nonstrikers calling them traitors, Judas', Benedict Arnolds, and using other scurrilous terms.

Nonstrikers could not attend church, engage in customary recreational activities, or shop in the stores without being subjected to harassment, epithets, threats, or actual assaults.

The union boasted in its publication that clergymen had been compelled to call off church picnics because "they feared the fate of the scabs * * *."

The union's publicity mediums even attacked the local clergymen because they had not spoken out in favor of the union and had not used their pulpits to support the strike.

On February 6 and 7, 1956, several bowling teams from the company's recreation department went to Sheboygan to bowl in a city tournament at Root's Bowling Alleys. They were harassed by a mob of strikers yelling threats and epithets such as scabs, slimy scabs, yellow scabs, and subjected to every kind of insult including aspersions on the virtue of their wives. One nonstriker was assaulted and others were kicked.

A Kohler Co. lawyer, Mr. J. A. Desmond, was told, "It's a good thing the lights don't go out or there'd be a dead lawyer around here."

I personally had encountered a similar episode earlier when I went to Sheboygan to bowl in a tournament and was harassed for 2 hours by a gang of strikers shouting such epithets as slimy Conger, stinky Conger, Egghead, Old Crow, and many others of similar import.

On February 8, 1955, hearings on the union's charges were begun. These hearings lasted only 3 days with Mr. Herbert V. Kohler, president of the company, called adversely, as the only witness. Attorneys for the NLRB then requested an adjournment to make amendments to their complaints.

During his testimony Mr. Kohler had mentioned that the company would not reinstate persons guilty of illegal conduct in connection with the strike. This was no novel position since we had announced it before the strike and frequently during the negotiations.

After the hearing adjourned, the union sent Mr. Kohler a letter demanding a list of those who would not be reinstated.

On March 1 the company replied giving the union a list of 91 employes who were discharged for violence and illegal conduct in connection with the strike.

It was discovered that one man's name was included in the list by mistake, and his discharge was revoked, leaving 90 discharged.

The list included the officers of the local union and its strike committee who had openly directed and controlled the mass picketing and other unlawful activities.

These men were clearly the most responsible for this illegal conduct for they planned, directed, and controlled it.

The company imports much of the clay used in the manufacture of its vitreous chinaware from England by boat direct to Sheboygan harbor.

On July 1, 1955, the union, in its daily radio broadcast, started publicizing the pending arrival of a clay boat and inducing large crowds to be on hand to meet it.

Their purpose was obvious and we gave written notice to the sheriff and the chief of police of the city of Sheboygan of the arrival of the boat and demanded that adequate police protection be afforded.

The clay boat, the *Fossum*, arrived July 2, 1955, and an attempt was made on July 5, 1955, to unload it.

The independent contractor, Buteyn Bros., who had a contract to unload the clay and transport it to the Kohler plant, was unable to get equipment into the dock area or unload the boat because of the riotous mob which had assembled.

Employees of the contractor who tried to move equipment into the area were kicked and beaten.

Donald Rand, international representative, told the contractor that the union was going to "pull out all stops" to prevent the clay from being delivered.

Photographs showing this episode are included in the photographs that I have submitted and affidavits of the contractor and some of his men have been in the possession of the committee's staff for several months.

A riotous mob of thousands assembled. When Kohler Co. attempted to move some unloading equipment into the area, it was halted by the mob. The employees driving it were beaten and had to be rescued by the police.

Windows in the home of a nonstriker, James Holsen, living nearby were broken and his car overturned. This was the same nonstriker who, on an earlier occasion, had had his car dynamited.

Nonstrikers who by accident or through curiosity drove near the area were assaulted and had the windows of their cars broken.

A nonstriker, Grunewald, who happened into the area was beaten severely, suffering a broken nose and other injuries.

Mayor Ploetz of the city of Sheboygan addressed the mob over a loudspeaker and promised that no attempt would be made to unload the boat.

He issued orders to the police to prevent any Kohler Co. unloading equipment from being brought within three blocks of the dock area.

There is no evidence that he ever issued any orders to the police to interfere in any way with the rioters.

Although this riot lasted all day and into the night and occurred in full view of the authorities, to this day not one arrest has been made of anyone who participated in it.

On July 6, the clay boat left Sheboygan harbor, still unloaded, and proceeded to Milwaukee, where the owners of the clay had been assured by the harbormaster that it could be unloaded.

The union established a picket line at the Milwaukee docks and the municipal dock workers refused to unload the cargo.

Harvey Kitzman, regional director of the UAW announced that the boat would be picketed wherever it attempted to unload.

Charles Schultz, State president of the UAW-CIO threatened to call a citywide general strike if any attempt was made to unload the boat.

The boat then left Milwaukee harbor and, together with a sister ship, proceeded to Montreal, Canada, where authorities dispersed an attempted picket line and the boats unloaded without further incident.

The clay was shipped from Montreal to Kohler by railroad. The union picketed the trains hauling the clay but we were successful in getting them into the plant.

Kohler Co. has sued the city of Sheboygan for damages caused by its failure to provide protection for the unloading of the clay and the clay boatowners and owners of the clay have sued the city of Milwaukee for damages due to its refusal to unload the clay. These suits are still pending.

The owners of the clay also filed charges before the NLRB alleging that the interference with the unloading of the clay was a violation of the secondary-boycott provisions of the National Labor-Management Relations Act.

The union agreed to a consent decree and an enforcement order by the United States Court of Appeals for the Seventh Circuit.

This enforcement order has been entered and subsequent clay boat shipments have entered Sheboygan harbor and been unloaded without incident.

Late in July 1955, I received a telephone call from Mr. Finnegan, head of the Federal Mediation and Conciliation Service, asking if we would attend further negotiation meetings to be held in Chicago. I advised him that we would.

Negotiating meetings were held, with the Federal conciliators participating, from July 27 to August 2, 1955.

The company submitted a written settlement proposal which included an offer of a general wage increase of 5 cents per hour for incentive paid employees and 10 cents per hour for hourly paid employees in addition to the 3 cents per hour already granted.

The union rejected the company's proposal and no settlement was reached.

I have not gone into detail with respect to the specific bargaining issues because I do not believe them to be material to the question before this committee.

What disagreements we may have had with this union over contract terms are hardly a matter of grave national concern.

But this powerful union's belief that it is above the law, and entitled to use coercion and violence to compel employer and employee alike to submit to its dictates is of national concern.

What has happened at Kohler was not accident. This reign of terror proceeded according to plan, the standard plan of the UAW-CIO.

The Kohler strike might be settled tomorrow but the question would still remain, "Is a union to be allowed by mass picketing, assaults, threats, attacks on their homes, and intimidation of their families to force men into union membership or on strike against their will?"

We have taken our stand in the firm belief that if we are to retain representative, constitutional government in this country, union leaders must obey the law the same as everyone else.

We cannot have peaceful communities invaded by lawless mobs led by imported hoodlums, law enforcement nullified, and the citizens subjected to a lawless reign of terror.

We have said that we will do nothing to reward such conduct, and by rewarding it encourage its repetition in the future whenever anyone, Kohler Co. or anyone else, dares to disagree with the union leaders.

This is and will continue to be our position.

When it became apparent that the cruder forms of coercion were failing, the union switched to a new form of coercion, a boycott.

They have sought to make Kohler Co. an object lesson that anyone who dared to disagree with them would be placed under sentence of economic death through a boycott.

Donald Rand, international representative in charge of the UAW-CIO boycott, was quoted in the August 9, 1956, issue of the Wall Street Journal as saying:

It seems to me that it is almost sinful to have any labor dispute degenerate to the point where this one has—where we actually have to wreck the company. That's what we're doing, wrecking the company.

It was the intent of Congress that unions should be able to bargain on even terms with employers.

But, I do not believe that Congress ever intended to put labor unions in a position to wreck any company that did not yield to their demands, whatever they might be.

Like their efforts to get employees to join their union and support their strike, their boycott activity has not been confined to peaceful persuasion but has involved every possible type of coercion and intimidation.

The boycott began with a statement in late September of 1954 by Harvey Kitzman, regional director of the UAW-CIO, Charles M. Schultz, State president of the UAW-CIO, Ross Baum, State secretary-treasurer, and other officials of the UAW-CIO calling on all union members and the public to refrain from buying Kohler products.

This was followed by a resolution adopted at the State convention of the Wisconsin State Industrial Union Council, October 20 to 24, 1954, calling upon workers and others "to refrain from buying or installing any of the goods or wares produced by Kohler Co."

Refusal to install is, of course, a secondary boycott. Plumbing fixtures are customarily installed by union journeyman plumbers and this resolution to refrain from installing was obviously directed to them.

In the middle of May 1955, UAW pickets commenced following trucks carrying Kohler material and setting up a picket line wherever the truck sought to unload. Some of the destinations where such picket lines were established were United Plumbing & Heating Sup-

ply Co., Milwaukee, Wis., Cordes Supply Co., Milwaukee, Wis., Reupert Plumbing & Appliance Co., Milwaukee, Wis., and F. R. Dengel Co., Milwaukee, Wis.

UAW-CIO representative, Ray Majerus, appeared at the latter scene and was obviously in charge of the picketing. When a company photographer attempted to take a picture of the proceedings, Majerus tried to take the camera away from him.

Donald Rand was another international representative of the UAW who directed the pickets and demanded that the customer refuse the shipment of Kohler ware.

Trucks carrying Kohler material were followed as far as Sioux Falls, S. Dak., and Davenport, Iowa.

Trucks of common carriers leaving the Kohler plant were followed and picket lines established at the unloading docks.

For example, trucks of the J. L. Scheffler Co. leaving Kohler were followed and shot at and the homes of some of the truckdrivers vandalized. Picket lines were established at the J. L. Scheffler unloading docks in Chicago.

The UAW has attempted to use its political influence to get governmental authorities to violate their duty to obtain materials for public works at the lowest possible cost and to support the boycott of Kohler materials.

On June 4, 1956, the city of Waterbury, Conn., passed an anti-Kohler resolution. It had been introduced by Alderman Ovid Garceau, UAW-CIO international representative in charge of the Kohler boycott in that area.

On September 10, 1956, the resolution was rescinded following a ruling of the corporation counsel that it was contrary to the city charter.

Ansonia, Conn., Bristol, Conn., and New Britain, Conn., passed similar resolutions. Those in Ansonia and Bristol were later rescinded.

Similar resolutions were presented but failed to pass in Bridgeport, Norwalk, Norwich, Shelton, and Torrington, Conn.

Parallel resolutions were passed in Boston, Mass., and Lynn and Worcester, Mass. An attempt was made to pass a similar resolution in New Bedford, Mass., but it was unsuccessful.

Almost identical resolutions were passed in Lincoln Park, Mich., and River Rouge, Mich.

The County Board of Los Angeles County passed a similar resolution but later rescinded it after advice of county counsel that it was illegal. The action of the county board in passing this resolution was later strongly criticized by the Los Angeles County grand jury, although no indictment was returned.

An unsuccessful attempt was made to pass such a resolution in the County Board of Milwaukee, Wis.

The almost identical wording of these resolutions gives plain evidence that they were all drafted at the same place, the UAW boycott headquarters in Detroit. In fact, a UAW-CIO publicity man boasted on the union's radio program that this was one of their major accomplishments.

It is also apparent that the resolutions which were passed or promoted in Connecticut and Massachusetts were the result of the activ-

ities of the UAW boycott representative in that area, Mr. Ovid Garceau.

The UAW has taken full advantage of the fact that the existing secondary boycott law prohibits only putting pressure on the employees of an employer to promote a boycott but does not forbid putting pressure on the employer himself.

The UAW-CIO has set up an active boycott organization and has divided the country into boycott districts, each in charge of a full-time boycott representative.

Prospective users of plumbing fixtures, plumbing contractors, and plumbing wholesalers have been importuned not to use Kohler materials with covert and sometimes open threats of picket lines, labor trouble, slowdowns, or sabotage if they insisted on using Kohler material.

These threats, implied or otherwise, are particularly effective where a plumbing contractor must obtain his employees through a union hiring hall. If the plumber's union business agent is sympathetic to the boycott the plumbing contractor may well fear that if he desires to use Kohler fixtures he will get no men assigned to him to install them or that the men assigned to him will be the poorest workmen or will slow down so that he will lose money on the job, or that a picket line may be established which will cause interruption on the job.

One example of this occurred in September of 1956 when St. Luke's Hospital in Milwaukee, Wis., built a new addition and desired to use Kohler fixtures to match those in the building already erected.

The business agent of the plumber's union, Anthony King, advised the plumbing contractor that he would prevent the use of Kohler material on the job. When the plumbing contractor requested men, King replied that none were available to set Kohler fixtures.

On October 15 so-called citizen pickets claiming to have no connection with any union appeared at the job site. Building tradesmen refused to cross the picket line and work was halted. On October 19, a meeting of the citizen pickets was held at the Club Orlo, in Milwaukee, with Ray Majerus, UAW international representative playing a prominent part.

Attorneys for the hospital, testing the citizen pickets claim that they represented no union, began suit by calling some of the pickets as adverse witnesses. The pickets promptly took the State equivalent of the fifth amendment.

Picketing stopped and the building was completed with Kohler fixtures.

Another technique was illustrated in this case. The National Labor Relations Act, sec. 8 (b) (4) makes it a violation of the act to induce or encourage employees to refuse to install goods in support of a boycott.

The UAW and some plumber's union business agents have advised plumbers that while they are unable to order them to refuse to install, union members have the right to refuse to install as individuals and that they would be acting as good union men if they did so.

Such a suggestion, from a business agent who assigns men to jobs and has the power to assign them to the most undesirable jobs or none at all obviously carries considerable weight.

Whether or not these instructions to act "individually in concert" are inducing and encouraging in violation of the act may not yet be definitely settled. The National Labor Relations Board has at least twice brushed aside this obvious subterfuge.

I have not attempted to cover all of the boycott activities, nor to detail the tactics employed by the UAW-CIO.

Fairness requires me to state that although the International Plumber's Union was importuned to pass a resolution instructing their members not to install Kohler goods, they refused to do so on the ground that it would be illegal and instead passed a resolution of sympathy for the strike.

We have no evidence that the International Plumber's Union has been supporting a secondary boycott although some local business agents have done so.

Despite the UAW's efforts the boycott has not hurt us seriously.

Users of plumbing fixtures and the public have reacted to these unfair tactics in a typically American way and have insisted on Kohler material because of their resentment against the boycott.

In our judgment the sales that we have lost because of the boycott have been more than offset by the sales that we have gained because of it.

But some plumbing wholesalers, contractors, and others have been hurt by it.

That is the vicious character of a boycott, that it involves and injures parties who had no part of the original dispute.

Just as the violence and coercion was exerted directly on employees who sought only their right as American citizens to determine for themselves how they wanted to be represented, so the boycott is exerted directly on those who desire to determine for themselves how they will spend their own money and what products they will buy.

The purpose of the National Labor Relations Act was to substitute the processes of law for trial by combat—to make violence, coercion, and illegality in connection with strikes unnecessary.

The law safeguards the right of any employee to join any union he chooses and to bargain through a union if he chooses.

But it does not contemplate that any employee shall be forced by violence, coercion or intimidation into joining or supporting any union against his will—nor that any consumer be forced to forego his right to spend his money and buy such products as he chooses.

MR. CONGER. May I proceed?

THE CHAIRMAN. Proceed.

MR. CONGER. Mr. Chairman, I think that I have been identified on the record here.

THE CHAIRMAN. You have been previously sworn and fully identified, and you may proceed.

MR. CONGER. My prepared statement deals with the harassing and the violence and the vandalism that has gone on during this strike.

I think that is pretty adequately before this committee, and I do not need to summarize that.

I would like to point out that there has been considerable testimony here which is not based on any record, and so forth.

I believe, Mr. Chairman, rather than summarizing my statement, if I may, I would like to introduce these exhibits and comment briefly

on them. In checking through the statement, I believe most of the summary is in evidence.

The CHAIRMAN. All right, you may offer your exhibits one at a time, and identify them, and the Chair will rule upon their relevancy and whether they should be placed in the record.

Mr. CONGER. The first exhibit that I have to present is a copy of a letter from the Kohler Co. to UAW-CIO, local 833, dated December 12, 1953. That is being presented because there has been testimony here that the Kohler Co. canceled its contract with the union.

This letter shows that not only did the company not cancel the contract but that it offered to continue it in full force and effect, and that all it did was to give the 60-day notice under the Taft-Hartley Act that it would ask for changes, and to propose the beginning of negotiations, even at that early date, in the hope that they might be completed before the contract expired.

The CHAIRMAN. That letter is brief and it may be printed in the record at this point.

(The letter is as follows:)

DECEMBER 12, 1953.

UAW-CIO, LOCAL No. 833,

Sheboygan, Wis.

(Attention of E. M. Kohlhausen, recording secretary.)

GENTLEMEN: In compliance with section 8 (d) of the Labor Management Relations Act, 1947, we hereby notify you that we propose to terminate our contract with you, executed the 23d day of February 1953, on the expiration date thereof, March 1, 1954.

We hereby offer to meet with you and confer for the purpose of negotiating a new contract.

The terms and conditions of the contract executed the 23d day of February 1953 will be continued in full force and effect until March 1, 1954.

Very truly yours,

KOHLER Co.,
L. C. CONGER,

Chairman, Management Committee.

Mr. CONGER. The next exhibit that I would like to submit is a copy of the Kohler Co. contract proposals.

The CHAIRMAN. What is that?

Mr. CONGER. Of the Kohler Co. contract proposals to the union during the bargaining. It starts out with a copy of the contract of February 23, 1953, which is in here.

There is the company's first contract proposal which shows that we made four complete contract proposals to this union during the course of the bargaining.

The CHAIRMAN. This is proposal No. 1, is it, or does it embody all of the proposals?

Mr. CONGER. It embodies proposals Nos. 1, 2, 3, and 4.

The CHAIRMAN. That volume embodying those proposals may be made exhibit No. 88 for reference. We will not print that in the record.

(The document referred to was marked "Exhibit No. 88," for reference and may be found in the files of the select committee.)

Mr. CONGER. The next exhibit I have is a letter.

Senator CURTIS. I may as well confess publicly here that I doubt if I will ever get to read that big exhibit. I am again pointing out that we are not arbiters of what a good contract is to be. I just want to ask you this:

In these four proposals could it be said that there were concessions made to the union in any or all of them?

Mr. CONGER. Yes, sir. There were many concessions made, and they are drawn up to show the changes over the old contract, or over the preceding proposals. There were concessions made on seniority, back to the seven major issues which the union raised.

We made concessions on all of them, with a possible exception of union security. That, I think, we could argue that we did make a slight concession, but it is arguable.

Senator CURTIS. Management regarded them as material concessions, or not?

Mr. CONGER. In these actual contract proposals, they are not the wage proposals. We made the union an offer of 3 cents an hour on wages before the strike started in July and August of 1955, and we made them an offer of 5 cents for incentive-paid workers, and 10 cents for non-incentive-paid workers, and we made them substantial offers to increase the pension plan, and we made substantial offers of increases on the insurance.

We made offers on the seniority proposals which at one time were satisfactory to the union, and that was settled, and then the union raised a question about the interpretation of a clause that they hadn't questioned before, and it was in the old contract, and insisted on a change in that, so that developed into finally no agreement over what had been agreed to.

Senator CURTIS. That is all I have to ask at this time.

The CHAIRMAN. All right.

Mr. KENNEDY. Could you tell us what the issues are at the present time between the company and the union.

Mr. CONGER. That is pretty hard to say, Counsel. As far as I know, there were the seven major issues, and the last offer the union made I think was to settle on the basis of the trial examiner's proposed findings, which in brief are that we should bargain in good faith, and after many meetings that we have had and the many concessions that we have made I frankly do not know if we did not bargain in good faith. I do not know how to do it.

Mr. KENNEDY. What are the issues now that separate the company and the union?

Mr. CONGER. Again, as I say, I do not know. I will have to take the union's one big issue, which, of course, is the reinstatement of striking employees.

I might say to you that with 1 exception, now 2 exceptions, we have not refused to reinstate any striking employee who applied for reinstatement. We have up to date reinstated those whom we have reinstated with their full seniority rights.

There are 2, 1 of whom we discharged, and another 1 who was a very active participant in the clay boat riot, who have applied for reinstatement and have been refused. But other than that, we have taken them back, but what we do refuse to do is to lay off our present employees in order to make room for returning strikers.

Mr. KENNEDY. What does the National Labor Relations Board report hold on that matter? Where is the disagreement?

Mr. CONGER. There is no National Labor Relations Board report as yet. There is a trial examiner's recommendations.

Mr. KENNEDY. Where is the disagreement with him?

Mr. CONGER. On that, I think he says that we should reinstate them upon application and so far we have done that with the exception of two individuals.

Mr. KENNEDY. Would the company then be willing to reinstate all those individuals if they applied for reinstatement?

Mr. CONGER. If we have a job for them, yes.

Mr. KENNEDY. What does the trial examiner say about that?

Mr. CONGER. Well, his recommendation——

Mr. KENNEDY. What is his recommendation?

Mr. CONGER. His recommendation is that we lay off other employees who have been promised permanent jobs, to make room for them. And may I say this, that when we started hiring employees after the strike, we made no promises or commitments to them of any kind whatever. We just hired them.

Then the union came out with a publicity barrage and ads, "Don't go to work at Kohler. These jobs are only temporary. When the strike is over you will find yourself out on the street."

That compelled us to issue an advertisement that the jobs at Kohler are permanent; that we are not hiring these people as strike breakers, we are hiring them as permanent employees. They forced us to give our word to those people, and having given it, we intend to keep it, if it is at all possible.

Mr. KENNEDY. But the company is willing, as I understand it, to reinstate all of these other employees when the first opening occurs.

Mr. CONGER. We have done that so far, but I understand that with the present business conditions those openings are not occurring very frequently at the present time. And I want to also make the exception, we are not willing to reinstate those whom we discharged for participating in illegal conduct.

Mr. KENNEDY. How many of those are there?

Mr. CONGER. Ninety.

Mr. KENNEDY. Well, isn't there a question before the trial examiner about those 90? Isn't that one of the questions?

Mr. CONGER. Yes, that is one of the questions, and he sustains our discharge on all except 33.

Mr. KENNEDY. How many is that?

Mr. CONGER. All except 33.

Mr. KENNEDY. And he feels that those 33 should be reinstated?

Mr. CONGER. Yes.

Mr. KENNEDY. Can I get an answer to the first question? Would the company be willing to reinstate all of the employees, when they apply for reinstatement as jobs open up, with the exception of these 90?

Mr. CONGER. As jobs open up, but understand that that may be a period of several years, or many years, and it may never come, possibly.

Mr. KENNEDY. What is the position of the trial examiner on that question?

Mr. CONGER. His recommendation is that they be reinstated as they apply for reemployment.

Mr. KENNEDY. So there is no conflict between them?

Mr. CONGER. Yes, there is conflict.

Mr. KENNEDY. He says that they should be reinstated when they apply for reinstatement?

Mr. CONGER. Yes, sir.

Mr. KENNEDY. And you say that the jobs have to be available first?

Mr. CONGER. That is right.

Mr. KENNEDY. So that is one of the issues that separates the union and the company at the present time?

Mr. CONGER. I think so, yes.

Mr. KENNEDY. The other of the 90, which I understand is down to 33 now—

Mr. CONGER. Yes.

Mr. KENNEDY. The trial examiner feels that those 33 should be reinstated?

Mr. CONGER. Yes.

Mr. KENNEDY. And you feel that they have committed acts of vandalism or violence which do not entitle them to reinstatement, is that right?

Mr. CONGER. Violence or illegal conduct; yes, sir.

Mr. KENNEDY. And you refuse to—could that go to arbitration, to have some impartial body look into that and make a decision as to whether they had in fact been in any acts of vandalism?

Mr. CONGER. We have an impartial body looking into it now, the National Labor Relations Board, and the body that the union chose to take it before. We are perfectly satisfied with that, and we are filing exceptions to the examiner's report in that, and we will await the outcome. It is now before an impartial body.

Mr. KENNEDY. Well, if the trial examiner has found that those 33 out of the 90 should be reinstated, would you be willing to reinstate those 33 at the present time?

Mr. CONGER. No. We have filed our exceptions with the NLRB, and the trial examiner's report, as I understand it, is not anything except recommendations, and it is not the action of the Board or anyone else. It has no force and effect unless and until it is approved by the Board itself.

We have our exceptions pending, and we have filed our briefs on those individuals, and we are willing to await the outcome.

Mr. KENNEDY. I am just thinking in a step toward being conciliatory, and trying to get the strike settled before there is a final decision. Would you be willing to submit those 33 cases to an independent arbitrator and have him decide if there is still a question about it?

Mr. CONGER. I don't see how many impartial bodies we have to submit these cases to. As I said, it is already before one impartial body, the impartial body that the union chose. They chose that body, and we are satisfied with it and it is the legally constituted body to pass on those things, and the cases there, and we are willing to abide the outcome.

Mr. KENNEDY. Now, the trial examiner has felt that these 33 should be reinstated.

Mr. CONGER. That is correct.

Mr. KENNEDY. But you disagree with that?

Mr. CONGER. We do disagree with that finding; yes.

Mr. KENNEDY. You are going to await an appeal before it goes before the National Labor Relations Board itself?

Mr. CONGER. Strictly speaking, it is not an appeal. It is an exception, and as I said, there is no real decision unless and until the Board adopts certain findings.

I wouldn't call it an appeal. It is almost automatic that both sides file exceptions to a trial examiner's report on things that they think are adverse to them.

(At this point, the following members were present: Senators McClellan and Curtis.)

Mr. KENNEDY. So, certainly, a decision in this strike, as far as the company is concerned, is going to have to await a final result from the National Labor Relations Board, and whatever appeal can be taken from that to the courts, is that right?

Mr. CONGER. No, I don't think that necessarily follows. I will say to you frankly, Mr. Kennedy, that any time the union has a proposition or has had a proposition in the past, we have been willing to consider it, look it over, and think of it.

But I can't sit here on the stand and explain possible hypothetical bargaining positions of the company. There is not one issue involved here. There are a great many, and a great many interrelated issues.

Mr. KENNEDY. I am talking now just about the 33. Assume that there aren't any other issues. Certainly on the 33, in order to get a settlement of the strike as far as the company is concerned, it is going to have to await an appeal to the National Labor Relations Board itself, and then to any court after that before the strike is settled, unless there is some further concession on the part of the company or on the part of the union.

Mr. CONGER. If there were nothing left in this thing but the 33, I do not think that would prevent a possible settlement of the strike.

Mr. KENNEDY. What other issues are there, then?

Mr. CONGER. Well, there is the issue of whether or not we should break our word to the employees whom we hired, and said their jobs were permanent, and lay them off and give jobs to returning strikers. I don't know what the union's contract position is now.

As I said before, they proposed acceptance of the examiner's report.

Well, I don't know what they are going to demand in a contract proposal. One of the big issues here is union security. We refused that to the union. Do we have to offer it to the union to bargain in good faith? I don't believe so. I don't believe that is the law. It is the same with the other unions.

Mr. KENNEDY. Would you say that union security is an issue at the present time?

Mr. CONGER. To the best of my knowledge, it is.

Mr. KENNEDY. What is the position of the union and what is your position on union security?

Mr. CONGER. The last position of the union was that they were asking for maintenance of membership.

Mr. KENNEDY. What does that mean?

Mr. CONGER. That means that anyone who joins a union at any time, whether as 1—and at least 1 and possibly 2 of these witnesses have testified here—he joins it under pressure or coercion or not, must remain a member of the union.

I will say to you that when I state that position, there is no question but what the union is going to disagree with that statement. They

have frequently announced in the paper that they have dropped that issue. We see that in press releases and on the radio, and then we would see it bob back on the table again. And in the trial examiner's report, he finds that whether or not that issue was dropped cannot be determined on this record.

Mr. KENNEDY. But as far as you are concerned, you feel that it is still an issue?

Mr. CONGER. As far as we are concerned, we do not agree with compulsory unionism in any form.

Mr. KENNEDY. And you say that is one of the issues or one of the points that the union is trying to get?

Mr. CONGER. I don't know. I haven't had a statement of the union's position for many, many months. That has been one of the difficult things. We put our positions in writing, and they have made in this entire bargaining procedure only one contract proposal, the one that they laid down on the table the first day of the bargaining.

Mr. KENNEDY. So you don't know whether that is an issue or not, is that correct?

Mr. CONGER. I don't know what is still in issue, as far as contract demands. I know that very often I have heard remarks made, and remarks made to conciliators, that their position was changed very much. Then when we sat down at the bargaining table, we found out they still wanted everything they asked for before.

The CHAIRMAN. Proceed with your exhibits.

Mr. CONGER. The next exhibit I have to offer is a company letter dated February 25, 1954, in which we offered to extend the old contract for 1 year, and from that date on—I may say that at all times during this bargaining, we have had on the table a contract proposal which the company was willing and ready to sign. We have been accused of bargaining with intent to avoid a contract. I don't know how you can avoid one when you have one on the table that you are willing to sign.

And we were also willing from February——

The CHAIRMAN. How long is that letter, Mr. Conger?

Mr. CONGER. That letter is two pages.

The CHAIRMAN. I am going to let these be printed in the record where they are brief so that we can have a clear picture of it in the record.

That letter may be printed in the record.

(The document referred to follows:)

FEBRUARY 25, 1954.

UAW-CIO, LOCAL No. 833,
Sheboygan, Wisconsin,

GENTLEMEN: This is in response to your suggestion made at our meeting February 23, 1954, that the present contract, which expires March 1, 1954, be extended another month, to April 1, 1954.

On December 12, 1953, Kohler Co. gave you notice of its intention to terminate the present contract and expressed willingness to negotiate the terms of a new contract.

On January 15, 1954, we called your attention to the fact that the time when the contract would expire was fast approaching and suggested that conferences begin so as to avoid the necessity of last minute negotiations conducted under pressure of an imminent expiration date.

On January 20, 1954, you advised that you did not have your contract proposal ready.

On January 25, 1954, contract proposals were exchanged and we have been negotiating since February 2, 1954.

To date we have spent a total of 69 hours in bargaining and Kohler Co. has submitted 2 complete proposals for a new contract.

Most of the time spent in bargaining so far has been on proposed clauses which would increase the power of the UAW-CIO over the individual employee and would grant special privileges and preferential treatment to union stewards and union officers.

Your contract committee has been insisting that any agreement must include the following:

1. Compulsory union membership.
2. Automatic renewal of dues checkoff deductions from payroll.
3. Special privileges for union officers and stewards.
4. Three union officials to spend full time on union affairs and to be paid by the company.
5. Transfer of authority from the company's supervisory personnel to the union on questions of operation which are necessarily the responsibility of management.
6. Transfer of the authority to make binding decisions of major importance from the management of the plant to third persons not connected with the business or having any responsibility for its operation.
7. Restrictions on job placement which would necessitate abandonment of the company's policy of avoiding layoffs by transferring men rather than laying them off and would necessitate frequent layoffs when business conditions are adverse.

So long as your contract committee continues to insist on exorbitant and unrealistic demands which would jeopardize the future of the company and the jobs of its employees, a short-term extension of the present contract will not serve any useful purpose.

We, therefore, do not agree that the present contract be extended for 1 month.

We will agree to the extension of the contract for 1 year, to expire March 1, 1955. This would include extension of the provision which allows reopening on the question of wages once each quarter.

Very truly yours,

KOHLER Co.,
(S) L. C. CONGER,
Chairman, Management Committee.

Mr. CONGER. So from that date on we had not 1 but 2 contract proposals on the table, 1 to renew the old contract for 1 year, without any change, without dotting an "i" or crossing a "t." And we also had the other proposal which contained improvements and concessions.

The next exhibit I would like to submit would be the company letter to the union of February 26, 1954, which was before the strike, and offered a 3-cent-an-hour wage increase. That is a 1-page letter.

The CHAIRMAN. That may be printed in the record at this point.
(The document referred to follows:)

KOHLER Co.,
Kohler, Wis., February 26, 1954.

UAW-CIO, LOCAL No. 833,
530-A North Eighth Street,
Sheboygan, Wis.

GENTLEMEN: As an alternative to our offer yesterday, February 25, 1954, to extend the present contract for another year, we offer the following:

1. A 3-cent-per-hour general wage increase, effective March 1, 1954.
2. This increase is on condition that the company's last contract offer dated February 15, 1954, with the changes agreed upon to date, becomes the new contract, to be effective until March 1, 1955.
3. The present pension and insurance plans to remain in effect.

Very truly yours,

KOHLER Co.,
(S) L. C. CONGER,
Chairman, Management Committee.

Mr. CONGER. The next exhibit I would like to introduce is the union's proposed contract, dated January 25, 1954. That was the union's contract proposal.

The CHAIRMAN. Submitted when? Submitted to you?

Mr. CONGER. On January 25, 1954.

The CHAIRMAN. Is that the union's original proposal to the company?

Mr. CONGER. Yes, Senator; that is correct.

The CHAIRMAN. That may be made exhibit No. 89.

(The document referred to was marked "Exhibit No. 89" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Exhibit 89 is for reference.

Mr. CONGER. I may say that is the only complete contract proposal ever submitted by the union to the company.

The next exhibit I would like to introduce is a summary of 1954 contract negotiations as of February 26, 1954, prepared by the UAW-CIO and its affiliate, local 833. That was a summary that was prepared at the request of the Federal conciliators for a statement of position as of that date. That is a photostatic copy, and it has some of my handwritten notes on it, which I would suggest not be included in the formal offer. It just happens that is the only copy of it I had, and I do not intend, unless the committee would desire, to submit my handwritten notes.

The CHAIRMAN. What is the document?

Mr. CONGER. At various times the conciliators asked the union for a statement of their position and a summary of the bargaining. This was the first time. This summary was requested, I believe, by Mr. Diskens, Federal conciliator, and Mr. Burkhart, with the assistance of his people, drew this up and submitted a copy to the conciliator and to us.

The CHAIRMAN. That may be made exhibit 90, for reference.

(The document referred to was marked "Exhibit No. 90" for reference and may be found in the files of the select committee.)

Mr. CONGER. The next one is a similar summary prepared by the UAW-CIO, and that is dated March 8. It is the same thing except a summary as of a later date.

The CHAIRMAN. That may be made exhibit 91, for reference.

(The document referred to was marked "Exhibit No. 91" for reference and may be found in the files of the select committee.)

Mr. CONGER. The next proposed exhibit I have is a similar summary dated June 20, 1954, and again pointing out the points that were then in issue and how far the bargaining had arrived, what concessions the company had made up to that date, and so forth.

The CHAIRMAN. That may be made exhibit 92, for reference.

(The document referred to was marked "Exhibit No. 92" for reference and may be found in the files of the select committee.)

Mr. CONGER. I would now like to comment in view of these union exhibits.

The CHAIRMAN. Do we have all of your exhibits now?

Mr. CONGER. No, you do not, Senator; but I would like to comment on these few briefly.

The CHAIRMAN. You may comment.

Mr. CONGER. I have introduced those for the purpose of showing that Mr. Allen Grasskamp's testimony that silicosis was an issue, a bargaining issue, is absolutely untrue; that in none of those contract proposals or summaries will you find any mention whatever of silicosis as a bargaining issue. That was never a bargaining issue. That was simply a smear and propaganda issue. Also, as far as his testimony as far as the grievance troubles they had is concerned, an analysis of those documents will show that there was very little difference of opinion on the grievance procedure, and what difference there was was settled and agreed upon at a very early date in the negotiations.

The next that I would like to submit is a chronological record of the bargaining meetings, the personnel that was present at them, who attended, and where they were held.

The CHAIRMAN. That may be made exhibit 93, for reference only?

(The document referred to was marked "Exhibit 93" for reference and may be found in the files of the Select Committee.)

Mr. CONGER. That is complete up to August 2, 1955. It does not go beyond that date. The next exhibit that I would like to submit is a copy of the postponement order of the Wisconsin Employment Relations Board on May 4, 1954.

The CHAIRMAN. Copy of the postponement order?

Mr. CONGER. Yes.

The CHAIRMAN. What does that relate to?

Mr. CONGER. We filed our complaint before the Wisconsin Employment Relations Board. When they held the hearing on it, the union came in and asked for a postponement. That is when there has been testimony here that the company agreed to certain negotiating times, to negotiate at certain times. This order will show on its face, and it includes the statements in the open court of the Chairman of the WERB, that there was——

The CHAIRMAN. That will be made exhibit No. 94 for reference.

(The document referred to was marked "Exhibit No. 94" for reference and may be found in the files of the Select Committee.)

The CHAIRMAN. If you wish to comment on any portion of it, you may do so.

Mr. CONGER. What I want to comment on is as found by the trial examiner. This document negates the claim that the company refused to bargain in good faith over the succeeding weekend thereafter; that there was no agreement; that all that happened there was the union came in and asked for a postponement, and the Wisconsin Employment Relations Board, after announcing in open court that no agreement could be arrived at, said they would set their own terms for the postponement. They postponed the case on condition that the union conduct its picketing legally, reduce the number of pickets to a specified number at each gate, and to 200 all over, no interference with ingress and egress.

In other words, that short-lived agreement of the union to discontinue the mass picketing was not the result of any agreement with the Kohler Co. It was the result of conditions laid down by the Wisconsin Employment Relations Board as conditions on which they could have a postponement of the hearing.

The next one that I would like to enter as an exhibit is August 10, 1954, a letter from the Kohler Local 833 to Mr. Herbert Kohler, president of the Kohler Co. It somewhat changes their demands. Their demand is changed from a union shop to maintenance of membership, and the wage demand is reduced from 20 and 10 cents an hour to 10 and 5.

The CHAIRMAN. That may be printed in the record at this point.
(The document referred to is as follows:)

KOHLER LOCAL 833, UAW-CIO,
Sheboygan, Wis., August 10, 1954.

Mr. HERBERT V. KOHLER,
*President, Kohler Co.,
Kohler, Wis.*

DEAR SIR: This is to advise you that the International Union, UAW-CIO Local 833, hereby modifies its monetary and contractual demands on the company in an effort to arrive at a speedy and honorable settlement of the matters in dispute between the union and the company.

1. General wage increases:

(a) General wage increase of 10 cents an hour for all hourly rated workers retroactive to March 1, 1954.

(b) An additional 5 cents per hour wage adjustment for all skilled workers in the maintenance and tool and die departments retroactive to March 1, 1954.

(c) Establishment of procedures to resolve any existing wage inequities inside the plant and to reduce the number of existing wage classifications. The company is to furnish the union with necessary wage and other data required to make an intelligent study of wage inequity problems.

2. Noncontributory pension plan guaranteeing minimum standards equal to UAW-CIO pension benefits.

3. Improvements in hospital-medical insurance to provide:

(a) Increases in daily benefit for room and board from \$6 to \$8 per day.

(b) Increase the maximum days of hospitalization from 31 to 120 days.

(c) A change of definition of dependents to include children from birth instead of 14 days after birth.

(d) Provide maternity benefits of \$8 per day for 10 days and surgical benefits of \$60 or a total reimbursement of \$140. The increased cost for these benefits which amount to approximately $\frac{9}{10}$ of 1 cent per hour to be paid for by the company.

4. The continuation of present arbitration provisions in the contract with a clarification that the discharge or discipline of workers shall be subject to arbitration.

The union is agreeable to provide an additional grievance step prior to arbitration which will be attended by the regional director of the UAW-CIO or his designated representative.

5. An amendment to the seniority provisions to provide for layoffs according to seniority only.

6. Maintenance of membership contract provisions with self-renewing check-off of union dues.

7. A 4 percent lunch-time allowance for enamel shop and pottery dry finishers engaged in continuous three shift operations.

The union is willing to negotiate on these matters still in dispute until satisfactory agreements are reached.

Sincerely yours,

EMIL MAZEY,
Secretary-Treasurer, UAW-CIO.

HARVEY KITZMAN,
Director, Region 10, UAW-CIO.

ALLAN GRASSKAMP,
President, UAW-CIO Local 833.

Mr. CONGER. The next one is a letter in reply to that letter, dated August 13, from Mr. Herbert V. Kohler to the union, in answer to their letter, and, I believe, is self-explanatory.

The CHAIRMAN. That may be printed in the record.
(The document referred to is as follows:)

AUGUST 13, 1954.

UAW-CIO LOCAL No. 833,
Sheboygan, Wis.

(Attention Mr. Allan J. Grasskamp, president.)

GENTLEMEN: This is in reply to your letter of August 10, 1954, containing what you term a modification of your demands.

These are virtually the same demands which you made orally before negotiations were discontinued on June 29 and vary in terminology rather than in substance from your demands prior to the strike.

They offer no basis for an assumption that agreement can be reached.

The company's position on these demands is as follows:

1. The company has offered a 3-cent-per-hour wage increase. This makes a total of 18 cents per hour granted in the last 2 years.

In addition, the company has granted fringe benefits estimated by the union at 6 cents per hour.

In view of the fact that earnings of Kohler Co. employees have always exceeded the average for the industry, the State, and the locality, the company's wage offer is not only fair but generous. The company's wage offer remains at 3 cents per hour, effective April 5, 1954.

2. The wages of employees in maintenance work and tool and die work are generally in line with wages paid in other departments and we are not in accord with any additional blanket increase for these employees.

3. In the contract last year the company agreed to a procedure intended to reduce the number of existing wage classifications and eliminate any inequities. This procedure did not function due to the union's insistence on another general wage increase thinly disguised as an inequity adjustment and on the union's insistence that the company compile data not available and not necessary for bargaining. Early in the negotiations, prior to the strike, the company expressed its willingness to establish procedures for bargaining to reduce the number of wage classifications and eliminate any intraplant inequities that may exist. Company representatives have advised you that this is still the company's position.

4. Your objection to the present pension plan seems to stem mainly from the fact that it was in existence before your union became the bargaining agent and that the union therefore cannot claim credit for forcing it upon the company.

The company has offered to supplement the present pension plan to yield retirement benefits at age 65 equivalent to the maximum benefit under the union's plan for the total years of credited service in any case where the present plan would yield less. It does not agree that the plan be made noncontributory.

5. The company has offered to increase the daily benefits under the hospitalization insurance plan from \$6 to \$8 per day; to increase the maximum days from 31 to 120 days; to change the definition of dependent to include children from birth instead of 14 days after birth; and to increase maternity benefits from the present flat payment of \$100 to a maximum benefit of \$140.

The company has also offered to continue to pay the full cost of hospitalization and surgical insurance for employees, including the increased benefits mentioned above.

The company will continue to contribute 14 cents per month toward the cost of hospitalization insurance for the employee's dependents.

6. The company has agreed to arbitration of the interpretation and application of the contract which is all the power a judge would have if the contract were before a court of law.

The company does not agree that vital management decisions shall be subject to the review of an arbitrator.

Many employees of the company presently working have been threatened with retaliation when the strikers return to work.

If any such attempts are made the company will take prompt and adequate disciplinary action. It does not agree that its freedom in this respect shall be restricted by arbitration of discharges.

7. The company does not agree that seniority shall be made the sole factor to be considered in the event of a layoff or for any other purpose.

In order to be fair to all employees and to maintain an efficient operation, merit and efficiency of performance must continue to be given consideration as well as seniority.

8. As you have been advised repeatedly, the company does not agree to any form of compulsory union membership.

It will not require employees to join a union as a condition of employment nor will it require them to continue membership in a union which they do not believe is properly representing them.

The company does not agree to maintenance of membership.

It has oered the same checkoff provision to which it agreed in the last contract, the only change being to prevent deliberate misinterpretation by the union.

9. Sufficient time is now available for lunching in the enamel shop, as shown by the fact that the men do eat their lunch. The demand for a 4 percent lunch-time allowance is a thinly disguised demand for a 4 percent increase in enamel shop rates in addition to the increase other employees receive.

An additional wage increase in the enamel shop is not warranted.

As you were advised prior to the strike, we intend to eliminate the third shift in the pottery dry finishing department.

The demands made in your letter offer little prospect for a settlement of the strike by agreement.

Company representatives will attend the meeting now scheduled by the Federal conciliators for Friday, August 13, 1954.

If the situation appears to be still deadlocked and an impasse reached, further negotiations will be useless until such time as you are willing to take a more realistic view of the situation.

Very truly yours,

KOHLER Co.,
HERBERT V. KOHLER, *President*.

Mr. CONGER. The next one that I would like to submit is a supervisory bulletin, which is a bulletin that we issue to our supervisory employees, dated April 5, 1954. There has been some question and argument as to when we put the 3-cent wage increase in effect, the one that had been offered to the union before the strike, rejected by them.

This will show that we put it into effect the first day of the strike.

The CHAIRMAN. That may be printed in the record.

(The document referred to is as follows:)

BULLETIN FOR SUPERVISION VOLUME 3, No. 54, APRIL 5, 1954

FOR YOUR INFORMATION

Effective today (April 5) all employees in the bargaining unit who report for work will receive the 3 cents per hour wage increase.

Since negotiations with the union have reached an impasse, we are putting this increase into effect.

The next document I would like to present as an exhibit is a Kohler Co. strike settlement proposal as of January 27, 1955. That was a result of Mr. Finnegan, Director of the Federal Mediation and Conciliation Service, calling and asking if we would agree to mediation meetings in the city of Chicago.

We agreed, and we held those meetings and we submitted this written proposal the first day of the meeting.

The CHAIRMAN. That may be made exhibit No. 95.

(The document referred to was marked "Exhibit No. 95" for reference, and may be found in the files of the select committee.)

Mr. CONGER. Counsel tells me I said January. It should be July 1955.

The CHAIRMAN. I believe I made the other proposals exhibits for reference. I want to try to keep the record straight. This document has been made exhibit 95 for reference.

Mr. CONGER. The next one is a proposal of August 2, 1955, made at that same series of meetings, and slightly modified over the original proposal.

The CHAIRMAN. That may be made exhibit No. 96.

(The document referred to was marked "Exhibit No. 96" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Exhibit 96 is for reference.

Mr. CONGER. The next document is a proposal made at that series of meetings by the UAW-CIO, a strike settlement proposal, dated August 2, 1955. I would like to comment on that briefly, if I may.

The CHAIRMAN. That will be made exhibit No. 97 for reference.

(The document referred to was marked "Exhibit No. 97" for reference and may be found in the files of the select committee.)

Mr. CONGER. I would like to comment that this shows very clearly, together with other evidence which can be submitted, that the union had not at that time dropped its pension demands, its insurance demands, its seniority demands, its hospital and surgical group demands, its lunch time enamel shop demands; in other words, even as late as August 2, 1955, it was not willing to settle for just a slight wage increase as it had represented to Judge Murphy.

Senator CURTIS. What were those lunch demands in regard to the enamel shop? I do not know that it is anything we can do anything about one way or another, but I would like to have your side of the statement of what that is.

Mr. CONGER. A lunchroom demand was a thinly disguised demand—the lunch time demand was a thinly disguised demand for a 4-percent wage increase in the enamel shop. We quite early in June; June 5, I think—I think the June 5 contract proposal there will show it—offered the union two 10-minute recess periods in the enamel shop, which they could use for eating lunch or anything else, despite the fact that there has been testimony here that no one else that runs an enamel shop apparently has such lunch periods, and we did not think that they were necessary. But, nevertheless, we did offer them to them. But we did not offer to pay them for those two 10-minute lunch periods. They were to be unpaid. The union demanded that we add 4 percent to all the piece rates in that department to allow for a 20-minute lunch period, which we were very sure they would not utilize, because they have always eaten their lunch in the period between the time when the piece is heating up while it is in the furnace—

Senator CURTIS. How is the operation with other employees outside of this particular shop? Do they have a lunch period?

Mr. CONGER. They have an unpaid lunch period.

Senator CURTIS. An unpaid lunch period.

Mr. CONGER. There are a few, a relatively few employees, less than 4 percent of our employees, who had a paid lunch period, Senator. Over 96 percent of our employees have a lunch period but they do not get paid for it.

Senator CURTIS. In other words, the contract is to work so many hours a day, and that is either worked before or after lunch, and the lunch period, you might say, is on the employees' time.

Mr. CONGER. That is right. In other words, the union's proposal, Senator, was that the men work 7 hours and 40 minutes, and be paid for 8 hours.

Senator CURTIS. What is it that the management contends makes an operation of the enamel shop—is that what they call it, the enamel shop?

Mr. CONGER. That is right.

Senator CURTIS. As different from the rest of the operation where a lunch period is taken off?

Mr. CONGER. We do not grant any paid lunch period or, in fact, any lunch period otherwise, where the man can eat his lunch without interruption of production. In other words, where there is some waiting time in the cycle. Where we have granted it, for example, was in the brass machine shop, on a three-shift operation. There, if they were going to eat their lunch, they had to shut the machine down and they naturally lost that production.

In the enamel shop—I don't want to go into a long detailed explanation, but—

Senator CURTIS. Just what you contend is the difference.

Mr. CONGER. What happens is you put a piece in the furnace and you heat it up, and after it is heated enough, it is taken out and enameled. That heating time is waiting time.

Senator CURTIS. Roughly, how long is that heating time?

Mr. CONGER. It is from 25 to 50 percent of the entire operation, depending on the size of the piece.

Senator CURTIS. The man who puts it in there and takes it out, what does he do in the meantime?

Mr. CONGER. He has very little duties in the meantime. He has to look at the next piece and see that that is ready to go. He has to truck away the piece that has already been enameled, but that is practically waiting time, and that is the time when we say he can eat lunch.

Senator CURTIS. He has to give some attention to the next piece to go in, and get the other one out of the road, and the rest is sort of watching duty?

Mr. CONGER. Yes; watching to see that the piece is taken out of the furnace when it gets hot enough.

Senator CURTIS. And that is the condition under which they eat their lunch?

Mr. CONGER. Yes. They have eaten lunch that way for 36 years in that enamel shop. That happened to be the first department I worked in when I went there.

Senator CURTIS. If a lunch period is granted that the company didn't pay for, it would mean that the workers' day would be just that much longer, or is that a fair statement of your contention?

Mr. CONGER. No; in that department it couldn't be longer, Senator, because it is a 3-shift operation, and you can have only three 8-hour shifts. So it would mean that if they actually took a lunch period, and they were working at maximum ability, they would actually be working only 7 hours and 40 minutes?

Senator CURTIS. Was the demand one that they shut down so that they could go to another point or another room for lunch, or one that they be paid something extra for eating their lunch right there?

Mr. CONGER. The primary demand was that 4 percent be added to all piece rates to account and allow for a 20-minute lunch period, which we were positive they would not take, and which we pointed out to the union many times that they had over 20 minutes at the end of the shift.

They quit long before they were supposed to. And I think some of the members of your staff who went out to see that operation—I was a little embarrassed by taking them out 25 minutes before the end of the shift and finding nobody working.

We have to wait for the next shift to come on in order to show them the operation. We felt that if they needed to interrupt for lunch period, they could do that in the middle of the shift, and they wouldn't be losing any earnings by doing it. They could then work to the end of the shift.

Mr. KENNEDY. That would be an 8-hour shift, is that right?

Mr. CONGER. That is an 8-hour shift; yes.

Mr. KENNEDY. What time do you come in in the morning; 6 o'clock?

Mr. CONGER. Well, let's see. The shifts there are, I think it is, 7 to 3.

Mr. KENNEDY. 7 o'clock in the morning to 3 o'clock in the afternoon?

Mr. CONGER. Yes.

Mr. KENNEDY. And it is piecework in there, is it?

Mr. CONGER. Yes; that is piecework.

Mr. KENNEDY. So that they are paid based on how many of these tubs that they handle, is that right?

Mr. CONGER. They are paid based on the number of pieces they enamel; yes.

Mr. KENNEDY. And it is arranged for an 8-hour shift. The piecework is based on what they should be able to produce in an 8-hour shift; is that right?

Mr. CONGER. That is correct.

Mr. KENNEDY. What is the temperature in the enamel shop?

Mr. CONGER. In some parts of it about the same as the temperature in this room. The piece itself, and there has been a great deal of propaganda about this, the piece itself is heated up to about 1,600 to 1,700 degrees. But that is not the temperature in the enamel shop. The temperature in the enamel shop is a little higher. The main part of the enamel shop is probably not above the temperature in this room. Right near the furnaces, where you have a little spill of heat from the furnaces, and where you have the enameling operations going on when the piece is out, there is a little higher temperature. It will run 80 to 90 degrees and sometimes it will run as high as 100 in the summertime.

Mr. KENNEDY. Do you say that the temperature in the enamel shop doesn't get above 100 degrees?

Mr. CONGER. I would say very rarely.

Mr. KENNEDY. Mr. Conger, I was present in the enamel shop even when there wasn't work going on and it was very, very hot.

Mr. CONGER. Well, you didn't have a thermometer.

Mr. KENNEDY. I will tell you it was far, far hotter than in this room. Do the men wear any equipment in the enamel shop?

Mr. CONGER. Yes, they wear equipment. They wear asbestos aprons and wear a face shield on the larger pieces to protect them from the

radiation of the heat from the piece. And if you are basing your idea on this fellow that hung the candy thermometer on the front of the apron, you will get that same reading if you put a thermometer out here on the hot pavement where the sun is shining on it on a hot summer day. You will get the same reading of over 200.

Mr. KENNEDY. Did the Wisconsin Labor Relations Board make a determination as to what the temperature was in there?

Mr. CONGER. No, they did not.

Mr. KENNEDY. They didn't reach any conclusion about it?

Mr. CONGER. No.

Mr. KENNEDY. Did they say anything about what the temperature was in the enamel shop?

Mr. CONGER. No. There was no evidence on that.

Mr. KENNEDY. They did not?

Mr. CONGER. No.

Mr. KENNEDY. They didn't make any statement of that kind?

Mr. CONGER. No.

Mr. KENNEDY. You say that the men can put the equipment in the oven, then they can step back and eat their lunch during that period of time. How much time is there then before they have to do some more work?

Mr. CONGER. From 2 to 5 minutes, depending on the piece.

Mr. KENNEDY. So you feel they can step back from the oven and take off their mask and have their lunch in 2 to 5 minutes?

Mr. CONGER. Mr. Kennedy, they have been doing it for 36 years, to my knowledge. I am sure they can do it.

Mr. KENNEDY. Did you work in the enamel shop?

Mr. CONGER. Yes, sir. That was my first job.

Mr. KENNEDY. And you feel as long as they were doing it 35 or 36 years ago, they should still be able to do that?

Mr. CONGER. I was not an enameler, but I worked in the enamel shop, and I know the conditions.

Mr. KENNEDY. Do you feel that because they were doing it 35 and 36 years ago, that they still should be able to do it?

Mr. CONGER. Not necessarily, but they are doing it. I don't think anybody can come along and say it is impossible to do what a man is doing.

Mr. KENNEDY. There have been, I guess, some improvements in working conditions in the United States in the last 35 years.

Mr. CONGER. Yes, and there have been some tremendous improvements in working conditions in the enamel shops since I was in there.

Mr. KENNEDY. Did they put fans in?

Mr. CONGER. Yes, there are fans, ventilation. The furnaces are better. The furnaces do not throw out the amount of heat into the room. The temperature in the enamel shop is much lower than it used to be, the general temperature, because the furnaces are better insulated. There is better insulation there.

Mr. KENNEDY. When did they put the fans in?

Mr. CONGER. They have been put in—well, they were not all put in at one time. That has been a progressive thing over the years. There is a ventilating system over the hood, over the place where the enameler operates, the hood over there, a suction system. There are monitor fans in the roof, ventilating fans. The ventilating sys-

tem in that enamel shop will remove the complete air, or the volume of air in the enamel shop, once every $1\frac{3}{4}$ minutes.

Mr. KENNEDY. Was there a time when the fans in the enamel shop were turned off?

Mr. CONGER. No; there was never a time when all the fans were turned off.

Mr. KENNEDY. Were some of the fans turned off?

Mr. CONGER. We have what is called a barrel fan, sort of a colloquial expression. It is a large fan which simply circulates air, the same as a desk fan does, only it is much bigger. Some of these furnaces were equipped with those. At the time we had the 12 enamellers' case, some of those were turned off as an experiment. It was suspected that they were kicking up a lot of dirt that was getting into the enamelware.

Mr. KENNEDY. When was this? 1952?

Mr. CONGER. Yes.

Mr. KENNEDY. The fans were turned off?

Mr. CONGER. They were turned off.

Mr. KENNEDY. As an experiment?

Mr. CONGER. That is when we had the illegal strike in the enamel shop, conducted by Mr. Ray Majerus, who was discharged at that time, and the Board, the NLRB and circuit court of appeals, sustained the decision of the Board.

Mr. KENNEDY. What about the Wisconsin Labor Relations Board? What did they do about the 12 enamellers?

Mr. CONGER. They didn't do anything.

Mr. KENNEDY. Did they have an opinion or finding on it?

Mr. CONGER. It was never before them. It was never before the National Labor Relations Board.

Mr. KENNEDY. It was not before a Wisconsin group?

Mr. CONGER. There was a Wisconsin unemployment compensation case.

Mr. KENNEDY. Did they receive unemployment compensation?

Mr. CONGER. They received unemployment compensation, yes.

Mr. KENNEDY. Did the examiner state that when the fans were turned off, there was no evidence that any of these men were feigning illness, but that they were in fact ill?

Mr. CONGER. I will have to disagree with that, because the evidence as it went to the NLRB and as it went to the circuit court, showed that four of these men who got ill when the fans were turned off had never had any fans to be turned off.

Four of the twelve discharged who said they got sick because these barrel fans were turned off were working on furnaces that never had been equipped with a barrel fan. I don't see how that had anything to do with their illness.

Mr. KENNEDY. Did the Wisconsin board say that they were entitled to their unemployment compensation because of their improper discharge?

Mr. CONGER. They held that they were entitled to their unemployment compensation. But I want to again tell you that the NLRB and the Seventh Circuit Court of Appeals held that they were properly discharged.

Mr. KENNEDY. Did the examiner in that case assert that the men were working in temperatures of 100° to 250° Fahrenheit?

Mr. CONGER. He made that assertion, but I would like to have you look in the record and find out where it is borne out by the testimony.

Mr. KENNEDY. But didn't the examiner make that assertion that these men in the enamel shop, where you say they are not entitled to a 20-minute lunch period at the present time, were working in temperatures of 100° to 250°?

Mr. CONGER. Mr. Kennedy, he did.

May I point out to you that 250° is above the boiling point of water and no man can live in that temperature, let alone work in it.

Mr. KENNEDY. I think that they step back into the cooler temperature, where it gets to about 100° to 125°, and then they have the 21½ minutes in which to eat their lunch, because they were doing it 35 years ago.

Mr. CONGER. Mr. Kennedy, you saw that operation once. I have seen it many, many times, and I know what that operation is.

They are not working in those temperatures.

Mr. KENNEDY. I say that in this country, the United States, at the present time, when somebody is working an 8-hour shift, they should be entitled to 20 minutes for lunch. It seems to me that that is very basic in the United States at the present time.

Mr. CONGER. We agree with you thoroughly, Mr. Kennedy, and we offered them 20 minutes for lunch.

Mr. KENNEDY. But they would then have to be working 8 hours and getting paid 7 hours and 40 minutes. That is not offering a 20-minute lunch period. Did you offer them a 20-minute lunch period in the middle of their shift, so that they could eat lunch and then go back to work?

Mr. CONGER. They could take that lunch period off, and eat their lunch, and work 8 hours and get paid for the pieces they produce.

Mr. KENNEDY. But would they be working for the whole complete 8 hours so they would be paid for 8 hours, or would they have to take the 20 minutes on their own time?

Mr. CONGER. Yes, they would eat their lunch on their own time and take it on their own time.

Mr. KENNEDY. Therefore, they are supposed to be working and producing, in order to get the full 8 hours' production, they would have to work the full 8 hours. You are asking them to take 20 minutes of their own time and therefore cut down on production. That is completely unfair.

Mr. CONGER. That is not completely unfair, not to pay men for time they don't work.

Mr. KENNEDY. If you don't make allowance for them to have a 20-minute lunch period, I don't know of any other factory or shop in the country where they are not allowed to have 20 minutes to have their lunch.

Mr. CONGER. Mr. Kennedy, you don't know of very many shops, then, if you know of shops where they pay them for eating lunch. That is the whole issue here, a paid lunch time. It is not a lunch time. We offered them 20 minutes.

Mr. KENNEDY. Under your proposal, if they start to work at 7 o'clock in the morning, for instance, could they take time off from 11

to 11:20, and then come back to work at 11:20 and work 4 more hours, to 3:20?

Mr. CONGER. The proposal made was two 10-minute periods rather than one 20-minute period. Otherwise, yes.

Mr. KENNEDY. Would they be paid during that 20-minute period?

Mr. CONGER. No, they would not.

Mr. KENNEDY. That is completely unsatisfactory.

Mr. CONGER. It may be unsatisfactory to you, but I don't see any reason why we should pay men for lunch. Almost no one else in the shop got it. Ninety-six percent of our people didn't get paid for eating lunch.

Mr. KENNEDY. All they are working during the period is the 7-hour-and-40-minute shift. They are not getting their full 8 hours.

Mr. CONGER. That is correct.

Mr. KENNEDY. Then that cuts down on their salary and pay. Suppose they all have families?

Mr. CONGER. It doesn't. Mr. Kennedy, you were there in that enamel shop, and saw that they finished up the shift half an hour beforehand, and in that time they proposed the 8-hour requirement and more than that, at this present time.

So that they can take that 20 minutes out and not cut down. There is an allowance made in the rates, and every piece rate we set has an allowance for personal requirements, and it has an allowance for the lunch time, the same as anything else.

(At this point the following members were present: Senators McClellan and Curtis.)

Mr. KENNEDY. You brought up the fact that I was there, and I would just say that I feel that I am very, very fortunate that I am not working in your enamel shop.

Mr. CONGER. I feel, Mr. Kennedy, that having had the experience in the enamel shop, in the foundry, and in the pottery of the Kohler Co., if I had to choose one of the three, I would choose the enamel shop, and I think it is a very good place to work, and so do the men that work there.

Mr. KENNEDY. Do they get hungry?

Mr. CONGER. When they get hungry, they eat.

Mr. KENNEDY. For 2½ minutes? All right.

The CHAIRMAN. Is there anything else?

All right, Mr. Conger, proceed.

Mr. CONGER. The next exhibit that I would like to present is the Kohlerian of March 25, 1954, calling particular attention to the fact of the headlines, "Strike Machinery Ready to Start," and "Strike Machinery Was Taken Out of Mothballs This Week."

The CHAIRMAN. That may be made exhibit No. 98 for reference only.

(Document referred to was marked "Exhibit No. 98" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. You may testify regarding it.

Mr. CONGER. The article goes on:

Strike machinery was taken out of mothballs this week at Saturday night's membership meeting at Sheboygan Armory prepared to set a zero hour for Kohler strike.

Then further on in the article—

Stoves, refrigerators, steam tables, dishwashing tubs, cups and saucers, and food supplies were reported in readiness at Petersons, on the Lower Falls Road, midway between Sheboygan and Kohler. These fixtures were installed a year ago when contract talks nearly reached the breaking point, and have been kept in mothballs in the event that a strike proves necessary.

So we have been accused here of preparing for a strike when none was imminent, and I submit this to show that the union was openly preparing for a strike.

MR. KENNEDY. Could I just ask you, what do the men get paid in the enamel shop?

MR. CONGER. At the time of the strike, about \$2.50 an hour as an average, and at the present time it is \$2.90 to \$2.95 an hour.

MR. KENNEDY. They were getting paid about \$2.50 at the time of the strike?

MR. CONGER. Yes; they were on piecework, and that would be close to their average earnings.

MR. KENNEDY. That is in the enamel division?

MR. CONGER. No, that is not the enamel division. That is the enamelers, and the enamel division includes the foundry, the grinding department, the warehouse and shipping, and also some miscellaneous departments like maintenance that is tacked on to it.

MR. KENNEDY. How much do they get paid, or how much did they get paid at the time of the strike?

MR. CONGER. In the enamel division, I would have to give you an estimate of that. Perhaps I may have it.

MR. KENNEDY. What is the difference between the enamel shop and the enamel division?

MR. CONGER. The enamel shop is a part of the enamel division. The enamel shop is where the actual enamel is put on. The enamel division includes anything from the foundry on, where the piece is being made, which eventually will be enameled.

MR. KENNEDY. Does that include the ground coat?

MR. CONGER. The ground coat would be a part of the enamel shop.

MR. KENNEDY. That would not be a part of the enamel division?

MR. CONGER. Yes, sir, it is part of the enamel division and part of the enamel shop.

MR. KENNEDY. What about the enamel small ware, is that part of the enamel shop?

MR. CONGER. That is part of the enamel shop.

MR. KENNEDY. And the enamel combination sinks?

MR. CONGER. That is part of the enamel shop.

MR. KENNEDY. And the enamel tubs?

MR. CONGER. That is part of the enamel shop.

MR. KENNEDY. And the ground coating, that is a part of the enamel shop?

MR. CONGER. That is right.

MR. KENNEDY. How does that compare, that approximately \$2.50, how did that compare to Rundle?

MR. CONGER. I think that you have those figures, as submitted to your staff. On one comparison, it compares very favorably to Rundle. Rundle, on some of the operations, the men make, and they are always on piecework, more money per hour and produce more per hour, and if

our people would produce more per hour, as they can, as shown by the fact that they quit half an hour before the end of the shift, their earnings would exceed Rundle.

Mr. KENNEDY. The people in Kohler, are they slack in their work?

Mr. CONGER. I don't say they are being slack, but I say that we have always had a certain amount of controlled production in the enamel shop, particularly when the UAW was very prominent there, and we had strictly controlled production there.

They were asking for this additional 4 percent when we knew they could make much more than 4 percent simply by additional work to the end of the shift, and that is all they had to do.

Senator CURTIS. May I ask there, there has been some testimony here that the company didn't report their wages to the industrial commission or the Bureau of Labor Statistics. What are the facts about that?

Mr. CONGER. The facts on that are that since the 1930's, I believe 1936, we have reported our wages and our earnings to the Wisconsin Industrial Commission, which, in turn, passes them on to the Bureau of Labor Statistics.

I would like to ask the committee not to take Mr. Grasskamp's word for that, or my word, but to inquire from the Industrial Commission of Wisconsin whether or not it is a fact that we refused. I am sure that they will give you the answer that since the 1930's Kohler Co. has reported its wages and its earnings to the industrial commission, which, as I say, passes them on to the Bureau of Labor Statistics, and that we report them on exactly the same basis as any other employer reports.

Senator CURTIS. Are you 40 or 50 cents an hour below your competitors?

Mr. CONGER. No, we certainly are not, Senator, and I would like to call attention to Mr. Grasskamp's testimony which I believe is on page 87 of the record here, that wages were never an important issue in this strike.

I submit to you, Senator, that if our wages were 40 to 50 cents an hour below our competitors, wages would have been a very important issue in this strike and in this bargaining.

As to our wages, we compare our wages every month, and it has been a part of my duty, as long as I have been chairman of the bargaining committee, the management committee, to report to our executives every month how our wages compare with the industry; that is, plumbing and heating fixtures and fittings as reported by the Bureau of Labor Statistics nationally.

Senator CURTIS. How many job classifications do you have?

Mr. CONGER. I have to take a guess at that, Senator. I would say about 600.

Senator CURTIS. Well, is there anything in this job classification that gives room for comparison of competitors that ends up with a different conclusion by different parties?

Mr. CONGER. Yes, there is a great deal of chance for that. You can have a job which has the same name in one shop as another shop and be an entirely different job.

For example, in our foundry we use an entirely different molding method than any of our competitors. They are all molders, but they

are working on an entirely different type of equipment, and entirely different type of job.

In our grinding operations, which is one of the things that Mr. Mazey pointed out and called a comparison to, if we would take the grinding operation that is comparable to the grinding operations he used as a basis for comparison, those earnings run from \$3.50 to \$3.70 an hour in our shop.

But he has taken a mechanical grinding operation, where the thing goes through on a mechanical grinder and the man just runs the machine, and compared that with a fellow grinding with a handstone, and they are not the same job.

Senator CURTIS. It is your contention, when you say that you are not behind in wages, that in truth and in fact, in an attempt to appraise comparable skills in your place and your competitors, you are not behind, or does it call for the resorting to classifications to prove you are not behind?

Mr. CONGER. I think, Senator, the only accurate way of making any wage comparison, and it is not completely satisfactory, is to compare the overall averages. We compare our overall averages with the overall average for the industry, as published by the Bureau of Labor Statistics, with the city of Sheboygan, and the State of Wisconsin, the county of Milwaukee, and various communities in the State of Wisconsin, and we deliberately set our wage pattern with relation to that.

I will say that at one time we toyed a little bit with the idea of joining an employers' association down in Milwaukee, to exchange rates, and we found that that association does this:

They will not allow anyone to exchange wage rates unless they send a job evaluation man into that fellow's plant and look that over, and say, "This is actually the same job in X plant as in Y plant," or "It is a 10-cent differential job in X plant and Y plant."

You can get some of the most fantastic comparisons by comparing job names, when the jobs aren't actually the same.

All of our competitors use slightly different methods than we do, and some of them use radically different methods. Briggs Manufacturing Co. makes their articles out of steel, pressed, and they press the steel, and we make ours out of cast iron, and that is an entirely different operation.

The only similarity is that Briggs Manufacturing Co. would be much more similar to an automobile company than to our operation. The only similarity is that we both end up with a bathtub.

Senator MUNDT. You have said, Mr. Conger, that wages at no time were the basis for the strike?

Mr. CONGER. That is what the union has announced frequently and that is what Mr. Grasskamp testified here to, that they were never an important issue.

Senator MUNDT. Do you agree about that?

Mr. CONGER. Yes, sir, I do, Senator.

Senator MUNDT. So that the union and management both agree that wages were not the dispute which precipitated the strike?

Mr. CONGER. That is correct.

Senator MUNDT. Can you give us a thumbnail sketch of what, in your opinion, was the issue that caused the strike?

Mr. CONGER. In my opinion, the issue that caused the strike, and the union will contest this, but this is my opinion and the opinion of my associates—the biggest issue was union security, the union shop.

The union was very insistent on having the union shop, because they had gotten in by about a 2.6-percent majority, and in our estimation hadn't made the gains in membership that they thought they were going to make, and they were very anxious to have some way of forcing people into that union.

In my opinion, we could have settled all of the difficulties quite readily had we been willing to concede a union shop.

Senator MUNDT. It is your position, and I presume therefore it is the position of the company, that the issue which precipitated the strike was the issue of the union shop.

Mr. CONGER. Yes, sir.

Senator MUNDT. I take it from that, that you do not have a State right-to-work law in Wisconsin?

Mr. CONGER. No, we do not, Senator. We have, in Wisconsin, what has been called a right-to-work law, but it is not the type of law that is now referred to. That is section 347, P. 683, which prohibits interference from going to employment, and in our statutes that is a right-to-work law, but it is not what is commonly known as a right-to-work law today.

Senator MUNDT. I do recall that witnesses representing the union have told the committee that the issue that continues the strike and prevents it from being settled is the issue of whether or not Kohler will rehire strikers.

Do you agree about that?

Mr. CONGER. That has become an increasingly important issue as we went along, certainly, Senator. As we have gone on these various meetings, at first there wasn't much of a replacement issue, and we could have probably settled the strike and taken back all of the strikers and had no trouble.

Now, since that time we have hired a great number of people, and we have kept our plant operating, and at the present time the plumbing industry is not in too good shape. Residential building has fallen off very greatly and that is a fact of the market to everyone, and at the present time our plant is just filled up.

Except for those people who quit and die or retire, we have no more job opportunities. There isn't an expansion.

Senator MUNDT. To pinpoint this, let me put it to you this way: Is it the company's position now that you will not hire any of the strikers or that you will not hire strikers when hiring a striker means firing somebody who is now working there, or have you designated a list of the strikers whose activities you consider to be violence and consequently you have a black list.

Which of those three attitudes is it, or if it isn't one of those, what is it?

Mr. CONGER. No. 2 comes closest to it, Senator, that we will and have taken back strikers who applied for reemployment when we have a job for them, and when it does not necessitate firing or laying off a present employee.

There are 90 people whom we discharged, and those we will not reinstate unless we are compelled by law to do so, in which case, of course, we will.

The other thing is that that discharge was made on March 1. There is a small group, and a relatively small group of people who probably would not be reinstated on application because of later acts, such as participation in the clay boat riot, and things of that type, and acts that we didn't know about at the time we made the discharges.

Senator MUNDT. Is this a fair way in which to define the razor-edge issue which keeps you from settling the strike between the union and the company?

The company's position is that you will not hire strikers who replace people presently employed by the plant and the union's position is that you should hire all of the strikers, and if that means firing some of the people now there, that you should disemploy them and employ the strikers.

Is that the razor-edge issue?

Mr. CONGER. That is it, I think, Senator.

The CHAIRMAN. All right, proceed with the exhibits. Have you finished?

Mr. CONGER. No, not quite, Mr. Chairman. I think I have two more exhibits. One is a compilation of pictures.

Do you want to assign an exhibit number, or do you want me to explain it before you pass on it?

The CHAIRMAN. Identify it so I can tell what it is.

Mr. CONGER. This is a book of photographs taken under my direction and control, and includes photographs of the mass picketing, of the clay boat riot, of the employment office mass picketing, a couple of photographs of the sheriff's deputies with the pickets, and some photographs of vandalism and property damage.

The CHAIRMAN. Do you have identification on each photograph, so that he who looks may have information as to what it purports to reveal?

Mr. CONGER. Each photograph has the identification of the date, the location it was taken, and the identification of certain individuals on it.

The CHAIRMAN. All right. You have verified the remarks on the reverse side of each photograph; have you?

Mr. CONGER. Yes; I have.

The CHAIRMAN. To the best of your knowledge and belief, information contained thereon is true?

Mr. CONGER. Yes, sir.

The CHAIRMAN. That book of photographs may be made exhibit No. 99.

(Book of photographs referred to was marked "Exhibit No. 99" for reference.)

The CHAIRMAN. That is for reference only.

Mr. CONGER. There are, in this book, 46 pictures of the mass picketing at the company, which I don't think I need to explain any further than to say that various international representatives and local union officials are shown on them and identified.

There is one interesting picture of May 24, 1954, taken between 7 and 8:30 a. m., which the Senators may recall was shortly after a group of nonstriker employees tried to get in the plant and were turned back, and this is a picture of the sheriff's deputies eating lunch with the pickets, and the lunch being furnished from the pickets' lunch wagon.

The next photograph is a picture on July 13, 1954, of the sheriff's deputies playing cards with the pickets.

There is also a group. There are two of those pictures of fraternization of sheriff's deputies. There are 17 pictures of the clay boat riot which I don't think I have to go into any more.

There are 22 pictures of the home picketing. As an example, there are 5 photographs of the picketing at the employment office. That was mass picketing to keep employees out of the employment office, or prospective employees from applying at the employment office.

As a result of that picketing, the local union and 16 of its members were convicted of contempt of court, and given fines and/or jail sentences.

The CHAIRMAN. What you have in mind with respect to those pictures where you referred to them as sheriff's deputies fraternizing with the strikers is to undertake to imply that they were there to support the strike rather than to protect those who wanted to work?

Mr. CONGER. That is correct, sir.

The CHAIRMAN. That is the implication of it?

Mr. CONGER. That is right.

The CHAIRMAN. That is what you meant to show by that picture?

Mr. CONGER. That is what I meant to show.

The CHAIRMAN. All right, proceed.

Mr. CONGER. And my last exhibit I have to show is an issue from a portion of the issue of the Kohlarian of November 11, 1954. "Thank God they are not all like Max Wimmer," and then the fact that Max Wimmer has returned to work, and his address is given, and then immediately after that Max Wimmer has hit with three successive acts of vandalism.

That is to show the connection between their publishing the names and addresses of these people and the acts of vandalism that occurred later.

The CHAIRMAN. Did you give the date of that?

Mr. CONGER. November 11, 1954.

The CHAIRMAN. That may be made exhibit No. 100, for reference only.

(Document referred to was marked "Exhibit No. 100," for reference, and may be found in the files of the select committee.)

Senator MUNDT. Was there any evidence, Mr. Conger, that the acts of vandalism actually occurred at the homes of the people whose addresses were printed in the paper?

Mr. CONGER. Oh, yes, many of them were hit, and this is just one typical example.

Senator MUNDT. After they were published?

Mr. CONGER. Yes, after they were published, and published with the address.

Senator MUNDT. After that was done, then the acts of vandalism occurred on those premises?

Mr. CONGER. That is correct. And usually there were repeated acts, and Max Wimmer has hit with three successive acts of vandalism.

And I would like, if I may, at this time, to make one brief comment about the Wisconsin law in this situation, which has been pretty badly misrepresented, and I don't think successfully, but has been badly misrepresented to the committee.

Section 343.683 of the Wisconsin statutes, which prohibits anyone from interfering with a person's lawful right to go to work, are not a part of the Wisconsin Peace Act, and are not enforceable only by the Wisconsin Employment Relations Board. It is a criminal statute, and it has criminal penalties connected with it.

It is violated the first time you do it, and not when the board comes along and says "We have found an unfair labor practice." The only connection of this statute with the Wisconsin Peace Act, chapter 111 of the statutes, is that chapter 111 makes it an unfair labor practice on the part of either company or union to violate the law.

Of course, if you violate this particular section, that is not only a criminal act but an unfair labor practice, and the board can take cognizance of it.

(At this point, the following members were present: Senators McClellan, Curtis, and Mundt.)

Senator MUNDT. Mr. Conger, your testimony on that point is in direct conflict with some testimony we had from union officials. We asked them that question time after time. They left me certainly with the impression that the Wisconsin law is that it is not illegal to engage in mass picketing until the Wisconsin Employment Relations Board, I believe it is called, issues a cease-and-desist order.

Are you sure of your facts?

Mr. CONGER. That is what I contest. That is absolutely incorrect. A review of the Wisconsin statutes will show that. This section 343.683 is violated by mass picketing which keeps people out of the plant. It is violated the minute it is done.

Senator MUNDT. Whether or not there has been a ruling by the board?

Mr. CONGER. Whether or not there has been a ruling by the board; yes, Senator.

Senator MUNDT. Well, I suppose a matter of that kind is not debatable. That is a matter of law.

Kitzman, among others, and Mr. Mazey, I believe, the second one, specifically said in response to inquiries by me and in response to inquiries by Senator Goldwater, that such was not the case. You tell us it is the case. That is one on each side.

There are two points of view. Have you got any evidence that can be introduced so we can find out who is right about this?

Mr. CONGER. Well, the evidence would be in the statutes themselves, in this section 343683; that was in the Wisconsin statutes for years before the Wisconsin Peace Act was ever passed.

It gets into the Wisconsin Peace Act or has a connection with the Wisconsin Peace Act only because the Wisconsin Peace Act has a catchall provision which makes any violation of any criminal statute an unfair labor practice.

I might also mention, Senator, that—

Senator MUNDT. Sometimes we pass laws in Congress and we say, "Notwithstanding the provisions of any other act."

Is that phrase in the Wisconsin Peace Act, which would wash out the other one?

Mr. CONGER. No. There is a similar phrase, that it does not wash out any other act.

Senator MUNDT. It does not.

Mr. CONGER. And I might mention that there were at least 2, and I think 3, criminal prosecutions for violation of this 343683, in which the people were found guilty and fines assessed, before the WERB ever got into the picture.

Senator MUNDT. A prosecution which took place as a result of picketing held illegal before the board had ruled?

Mr. CONGER. That is correct, Senator.

Senator MUNDT. Those cases, you say, have resulted in convictions?

Mr. CONGER. Yes, sir.

Senator MUNDT. And have not been upset by the Supreme Court?

Mr. CONGER. No; I don't think they were ever carried up to the Supreme Court; some of them were carried up to the circuit court, but in those particular cases, a violation of this statute, I believe the appeals were dropped.

I would also like to point out that it is not a fact, as the union claimed, that the minute the board told them that this conduct was illegal they immediately ceased it.

Senator MUNDT. They did claim that.

Mr. CONGER. Yes, sir.

Senator MUNDT. I thought you said it was not a fact that they claimed it.

Mr. CONGER. I say that they claimed it, but it is not a fact, and the record will show that, an undeniable record there.

Senator MUNDT. What can you show in the record that the union's testimony on that one is wrong?

Mr. CONGER. We can show in the record that the Wisconsin Employment Relations Board handed down its decision on May 21. The union immediately announced that they would pay no attention to it; it was not going to affect the picketing; and on May 24 another group who tried to get in were repulsed. That is very evident from the pictures that we have put in here, the testimony of witnesses, and the movies that we have put in.

In fact, that May 24 was probably the most serious incident of violence that we had on the picket line during the entire strike, and that was after the board's order and after the union well knew that it was illegal.

I might also point out that the union carried that case all the way up to the Supreme Court of the United States, claiming that the Wisconsin Employment Relations Board had no jurisdiction whatever in this matter.

I might also point out that they did not live up to this until they were faced with a probable enforcement order in Judge Schlichting's court.

On May 28 the Wisconsin Employment Relations Board went in for an order from the court to enforce their order. Then they said they would live up to it; thereafter, the home picketing started.

Again the Wisconsin Employment Relations Board came in and said, "That is a violation of our order," because the order had prohibited any home picketing. Then the issue on an injunction on September 1 by Judge Murphy. Thereafter they had this employment office picketing, which resulted in the local union being found guilty of contempt, and 16 of its members.

So I say it is not a fact at all that the union lived up to these orders as soon as they found it was illegal, what they did.

At no time did they ever cease their illegal conduct. When we got one type of it stopped by legal action, they promptly switched to another kind.

The CHAIRMAN. Senator Mundt, would you yield to me for a question for clarification, please, sir?

Senator MUNDT. I will yield.

The CHAIRMAN. What is the date of the orders of the WERB?

Mr. CONGER. May 21, 1954.

The CHAIRMAN. May 21. And what is the date of the court order of enforcing?

Mr. CONGER. September 1, 1954.

The CHAIRMAN. May 21, and the court order to enforce the WERB order against mass picketing was not until September what?

Mr. CONGER. First, 1954.

The CHAIRMAN. Do you contend that all during that period of time, from May 21 to September 1, the order of the WERB was violated by the union during that period of time?

Mr. CONGER. No. We contend that it was very—may I say this: There were technical violations all that period of time, but I wasn't too concerned, and we weren't too concerned, about some technical violation. If the order said 20 pickets at the gate and some morning they happened to have 21 while the shifts were changing, that didn't bother us at all as long as they weren't interfering, seriously interfering, with someone going in.

The CHAIRMAN. If the Senator will pardon, I have another question. What prompted the securing of the court order on September 1?

Mr. CONGER. That was the home-picketing episode.

The CHAIRMAN. The home picketing?

Mr. CONGER. Yes.

The CHAIRMAN. So the court order was not obtained with respect to mass picketing until the home picketing had broken out. Then who went to court to get the court order?

Mr. CONGER. Under our procedure, under the WERB, which is considerably different than the procedure under the NLRB, the complainant files his complaint with the WERB and he prosecutes it before the WERB up until the point he gets an order. From that time on the complainant, the Kohler Co. in this case, passes officially out of the picture, and it is up to the board itself to go in and get court orders to enforce its order.

The CHAIRMAN. So the Board itself went in to get the order to stop the mass picketing and the home picketing?

Mr. CONGER. Yes, sir; they went in to get an order to stop the mass picketing, and the union came in on May 28 and said, "We will voluntarily comply. There is no reason why we need an injunction."

The CHAIRMAN. Then this May 28—that is what I was getting at—was there a consent order made at that time by the union that it would comply with the WERB order?

Mr. CONGER. It was not a consent order, Senator. It was a consent postponement from day to day. They came in and said, "We will comply."

The CHAIRMAN. In other words, the petition for enforcement had been filed?

Mr. CONGER. Yes, sir.

The CHAIRMAN. The union came in and said, "There is no use to make an order, we will comply with it."

Is that in effect what you mean?

Mr. CONGER. That is it.

The CHAIRMAN. Then it went on from time to time, and finally the home picketing was the cause or necessitated the Board going before the court finally on September 1 and getting an order.

Mr. CONGER. That is it.

The CHAIRMAN. Am I correct now?

Mr. CONGER. That is correct, Senator.

The CHAIRMAN. I thank the Senator. I was trying to get it clear.

Senator MUNDT. I think this will help the chairman, and it is important for the record, that associate counsel has just handed me a copy of the intermediary report, the examiner's report, of the National Labor Relations Board, and not the Wisconsin board. Item No. 20 says this:

In the meantime, WERB, the Wisconsin board, proceeded with its hearing, and on May 21 issued its order directing the union to cease and desist from certain specified conduct, including obstruction or interference with ingress and egress from the plant, hindering or preventing by mass picketing, threats, intimidations, or coercion of any kind, the pursuit of work or employment by person or persons desirous thereof, the intimidation of the families of such persons or the picketing of their domicile. The union informed its membership that the order was not enforceable and would not change the picketing in any way.

That is from the NLRB report.

That indicates, perhaps, why 4 or 5 days after the WERB had made its cease-and-desist order the incident that you referred to of mass picketing occurred at the plant.

Mr. CONGER. Right.

Senator MUNDT. I am almost positive, Mr. Chairman, that we have direct testimony from the union that it did comply with the cease-and-desist order issued on May 21 at the time it was issued. I suggest that we have one of our staff members search through the testimony by union officials and see whether or not my memory is correct on that, because it will be some time before the hearings are printed and indexed. It is a pretty important question of fact. I would like to know whether or not the union did tell us a true report of what took place.

We can find that only by an examination of the record. If we could have some member of the staff make that examination, I will appreciate it.

The CHAIRMAN. The Chair recalls that they testified, I don't remember which witness, that immediately after the WERB order they complied with it.

Senator MUNDT. That was my understanding. We have here direct testimony, supported by motion pictures and supported by the date of this strike, by other witnesses, and most important of all, direct conflicting testimony from the NLRB report itself.

So I think as a guidance to the Department of Justice, if we could have this survey made by one of our staff members and report to the committee, it would be very helpful.

The CHAIRMAN. All right. Let us proceed.

Have you anything further, Mr. Conger?

Mr. CONGER. That is the end.

The CHAIRMAN. Are there any questions?

Mr. Counsel?

Mr. KENNEDY. I would like to ask you something about the detective agency that you hired.

Mr. CONGER. All right.

Mr. KENNEDY. Are those the reports of the detective agency?

Mr. CONGER. Copies of the reports, yes.

Mr. KENNEDY. How many different detective agencies did you hire?

Mr. CONGER. We hired two different detective agencies.

Mr. KENNEDY. What were their names?

Mr. CONGER. One was through the Schindler Agency, the other one was the Madison Agency which changed its name. When you ask me whether these were the reports, these are the reports of the Madison Agency. I have never been able to find the reports from the Schindler Agency.

I do not believe that I threw them away, but it is one of these things that I am sure is in some file somewhere but I can't locate the file. I have never been able to find it.

Mr. KENNEDY. We were able to get copies of the Schindler Agency report.

Do you have those, Mr. Bellino?

Mr. BELLINO. Yes, Mr. Kennedy.

Mr. KENNEDY. Could we have those made exhibits?

TESTIMONY OF CARMINE S. BELLINO—Resumed

The CHAIRMAN. Mr. Bellino, have you been previously sworn?

Mr. BELLINO. Yes, sir.

The CHAIRMAN. I will ask you to identify what you hold in your hand.

Mr. BELLINO. These are photostatic copies of reports of operators 371 and 487 who were used by the Schindler Agency in connection with the Kohler strike.

The CHAIRMAN. Where did you procure them?

Mr. BELLINO. These were obtained, some of them, from the Schindler Agency in New York, and most of the written reports came from the Chicago Agency of the Inter-State Detective Agency, Inc., which is a company used by Schindler in getting these two men to Kohler.

The CHAIRMAN. You have no doubt that you have the accurate reports?

Mr. BELLINO. I have no doubt about that; no, sir.

The CHAIRMAN. Did you obtain them in your capacity as a professional staff member of the committee?

Mr. BELLINO. They were obtained under my supervision by members of the staff.

The CHAIRMAN. All right. Those may be made exhibit No. 101, for reference.

(The documents referred to were marked "Exhibit No. 101" for reference and may be found in the files of the select committee.)

The CHAIRMAN. They have been made an exhibit now.

TESTIMONY OF LYMAN C. CONGER—Resumed

Mr. KENNEDY. Mr. Conger, this first group was retained in order to try to learn who had done the kidnapping of Oostdyk?

Mr. CONGER. Of Oostdyk.

Mr. KENNEDY. Is that correct?

Mr. CONGER. That is correct.

Mr. KENNEDY. And they were not able to successfully solve that?

Mr. CONGER. No, they did not solve it.

Mr. KENNEDY. Who referred you to this detective agency?

Mr. CONGER. No one referred me to that detective agency. We have a very active Kohler Women's Club, which has a distinguished guest speaker program, and Mr. Raymond Schindler appeared on that program as a speaker at one time. So I kind of thought of him.

Mr. KENNEDY. This not being successful, then you were referred to this other detective agency, is that right?

Mr. CONGER. Yes.

Mr. KENNEDY. That is the Madson?

Mr. CONGER. That is the Madson Detective Agency. I think they changed their name a couple of times here. I think the later ones were Investigators Associated, or something of that type. It is shown on their reports.

Mr. KENNEDY. Those are their reports that you have before you?

Mr. CONGER. Yes.

Mr. KENNEDY. When did you first contact Madson Detective Agency?

Mr. CONGER. About July 12, according to the report.

Mr. KENNEDY. That was when you hired them. Do you know when you first contacted them?

Mr. CONGER. We first contacted them on July 12, after the charges had been filed against us in the NLRB proceeding.

Mr. KENNEDY. That is the first time you contacted them?

Mr. CONGER. Yes. That is, contacted them to do any work. I don't know, I may have seen 1 or 2 of them, but it is the first time we retained them at any rate.

Mr. KENNEDY. When did you first meet and discuss the matter with them.

Mr. CONGER. July 12.

Mr. KENNEDY. That is the first time you ever met them and discussed it, was July 12, 1954?

Mr. CONGER. Yes. That is what Mr. Madson's records show and that is my recollection of it.

I know that it was after the NLRB case charges were filed against us.

Mr. KENNEDY. You don't believe it was back in May, May 22, 1954?

Mr. CONGER. I don't believe I ever contacted the Madson Detective Agency to do anything on May 24. I don't recall anything of that type. This is my recollection and that is what the report shows.

Mr. KENNEDY. What was the purpose at that time?

Mr. CONGER. The purpose at that time was mainly to prepare information which we expected to need and present in our defense of the NLRB case, to investigate the background of one Mr. Robert Burkhart. We made the defense in the NLRB case that the union was not bargaining in good faith, because Mr. Burkhart had not filed an anti-

communist affidavit, and also the defense that we do not believe that when a union is represented by an individual whose real purpose is to destroy not only that company but all industry in the United States, that that union is bargaining in good faith. We were being accused of trying to bust this union, and we thought that shoe would fit the other foot, too, and that it might be a defense that the union, through its representative, was trying to bust the company and all other companies.

Senator MUNDT. On that point, were you trying to bust the union?

Mr. CONGER. No, sir. I do not understand, Senator, how you can bust a union when you offer it a contract. The union has testified, and Mr. Burkhardt has testified in the NLRB case, that he thought it would bust the union to accept the same contract they had the year before. Well, that isn't busting a union in my philosophy.

I don't see how it is possible to bust a union when you offer to renew the contract with them, to make a contract with them.

I don't see how you can bust them.

Senator MUNDT. Is that agreed to testimony by both sides, that you did offer to renew the contract, with the same UAW union for another year, or is that a matter of dispute?

Mr. CONGER. I don't think that is a matter of dispute. I handed in the exhibit, a letter, that went to the NLRB, and it was accepted. I don't think the union ever contested the fact that we agreed to renew the contract for a year.

There was one collateral matter before that. They asked us to renew the contract for 1 month, and we called their attention to the fact that we had done everything possible to get this bargaining going at the time several months before when it could have been completed if they had been willing to come in and bargain, or we hoped it could be completed.

The CHAIRMAN. My recollection is that the union agreed that you offered to continue the contract. I don't think that is in controversy.

Mr. CONGER. I don't think so.

The CHAIRMAN. They took the position, however, that the original contract, the contract you wanted to renew, was actually a substandard contract and they were trying to make progress and bring it up to a higher standard. I think that is the record.

Mr. CONGER. May I make a comment on that, Senator?

The CHAIRMAN. Yes.

Mr. CONGER. At the time the contract was issued and signed by the union, Mr. Emil Mazey, and these are in the records of the NLRB case, made the statement that they made more progress in this contract than in 17 years of the old union.

Mr. Harvey Kitzman stated that that contained more improvements than any first contract he had ever helped to negotiate.

The Kohlerian came out with banner headlines, "We Have Won a Good Contract." I say to you now that their statements to this committee are false, or their statements then to their membership were false. It is the old familiar pattern either they were deceiving their membership then or they are deceiving this committee now.

Senator MUNDT. Have those issues of the Kohlerian been placed in exhibit?

Mr. CONGER. I don't think so, Senator. We will be glad to produce them.

Senator MUNDT. Do you have them available?

Mr. CONGER. I think we have. They are in as exhibits in the NLRB proceeding. But I think we have copies here and I think we can produce them.

Senator MUNDT. I think they should be made exhibits if, in fact, they say what you say they are alleged to report. That certainly was not my impression of the kind of contract that you were offering the union.

Mr. CONGER. We will undertake to produce those.

Senator MUNDT. The Kohlerian is their official newspaper, and if they did say in fact that this would be a big improvement, I think it important that we know that. If the papers are not available to support your statement I think we ought to know that.

Mr. CONGER. I will undertake to produce those, Senator, but I would like a little time, a day or so, to do it.

I think the only copies of those I have are copies of exhibits which went into the NLRB proceeding, and, of course, I would like to keep a copy of that since that proceeding is not over with.

Senator MUNDT. I imagine the committee would accept a photo-static copy, is that correct, Mr. Chairman?

The CHAIRMAN. Yes, indeed. If you have them and produce them within a reasonable time, the next 3 or 4 days, the Chair will direct that the clerk receive them and mark them collectively, such issues of the Kohlerian as you may produce, and make them exhibit No. 102 for reference only.

(Exhibit No. 102 was reserved for the documents referred to, for reference, and may found in the files of the select committee.)

Mr. CONGER. May I amend one of my statements? I think one of these statements was made on a union program. It may be that one of them might be a radio program rather than the Kohlerian.

The CHAIRMAN. Well, if a radio program was produced in addition thereto, under your oath if you state it is a correct copy of the program, that may be made exhibit 102 A.

Mr. CONGER. Thank you.

(Exhibit No. 102 A was reserved for the document referred to, and may be found in the files of the select committee.)

Mr. KENNEDY. Mr. Chairman, could we also have the other reports of the other detective agency made an exhibit, which Mr. Conger has?

The CHAIRMAN. Mr. Conger, you have the reports of which agency?

Mr. KENNEDY. Madson.

Mr. CONGER. The staff has a complete file of these. I would like to keep my copies.

(At this point, Senator Mundt withdrew from the hearing room.)

The CHAIRMAN. Do you have other copies of them?

Mr. KENNEDY. Is that the only copy you have?

Mr. CONGER. Mr. Bellino took copies and these are the same copies as Mr. Bellino took from my files.

The CHAIRMAN. Do you have copies of them?

Mr. KENNEDY. Have you any other copies of them, other than the ones you have there?

Mr. CONGER. No, I have no other copies other than the ones I have now.

The CHAIRMAN. That is all that the company has?

Mr. CONGER. That is all I have.

Mr. KENNEDY. Could we have ours made an exhibit?

The CHAIRMAN. You want to keep 1 copy of them, of course, and we have 1 copy. It was a matter that if we had extra copies, it would be a convenience to the staff.

Mr. CONGER. No. We made this copy in a hurry while Mr. Bellino was there, to give it to him before he left, and we made only one copy.

TESTIMONY OF CARMINE S. BELLINO—Resumed

The CHAIRMAN. Mr. Bellino, do you have copies of the reports of the Madson Detective Agency as provided you by the Kohler Co.?

Mr. BELLINO. And a few from Madson.

The CHAIRMAN. Some of them were secured from Madson agency, is that correct?

Mr. BELLINO. Yes, sir.

The CHAIRMAN. You have them here in three folders, do you?

Mr. BELLINO. Yes, sir.

The CHAIRMAN. Three separate folders. These three folders of copies of the reports of the Madson agency may be made exhibit No. 103 for reference.

(The documents referred to were marked "Exhibit No. 103" for reference, and may be found in the files of the select committee.)

TESTIMONY OF LYMAN C. CONGER—Resuming

(At this point the following members of the committee were present: Senators McClellan and Curtis.)

Mr. KENNEDY. You say that you made an investigation of Mr. Burkhart?

Mr. CONGER. That is correct.

Mr. KENNEDY. And this investigation went on over a period of time, did it?

Mr. CONGER. Quite a considerable period of time, yes.

Mr. KENNEDY. Are you still retaining this Madson Detective Agency?

Are they still being retained by you?

Mr. CONGER. I don't know quite how to answer that. He was not on a retainer basis. He was on a fee basis, charged for any services that he might perform.

Mr. KENNEDY. Is he still performing?

Mr. CONGER. He is performing none at the present time.

Mr. KENNEDY. Has he, within the last several weeks?

Mr. CONGER. No, not within the last several weeks.

Mr. KENNEDY. When was the last time that you had him do work for you?

Mr. CONGER. I think it was in January or February of this year, as I recall it.

Mr. KENNEDY. Have you been in touch with him since that time?

Mr. CONGER. Yes.

Mr. KENNEDY. But you haven't had him do any work for you?

Mr. CONGER. No.

Mr. KENNEDY. It was just in connection with this investigation?

Mr. CONGER. Yes; in fact, when Mr. Bellino went up there to look

at his files, he called me and asked if he had permission to show them to him, and I called attention to the fact that they had been turned over to the committee staff months before. In fact, I am advised they were down here in Washington for 6 weeks, one of the first things turned over.

Mr. KENNEDY. In addition to Mr. Burkhardt, who else did you investigate?

Mr. CONGER. We had him make some investigation of Mr. Emil Mazey, starting from some testimony that was given before a congressional committee, the Dies committee. We had him look up some of those witnesses.

I also received a——

Mr. KENNEDY. Did you pay any of these witnesses to give you statements about these people, for instance Burkhardt?

Mr. CONGER. They were paid for information, some of them. I do not recall whether any of them were paid for statements or not.

Mr. KENNEDY. Well, if they gave you——

Mr. CONGER. It may have been possible.

Mr. KENNEDY. If they gave you statements or information, then they received money, did they?

Mr. CONGER. Some of them did.

Mr. KENNEDY. In addition to Mr. Emil Mazey and Mr. Burkhardt, who else did you investigate?

Mr. CONGER. I can't recollect any others; if the record shows, you can refresh my memory on it.

Mr. KENNEDY. You can't remember anybody else?

Mr. CONGER. I can't remember anybody else now. Our purpose was to bolster our defense which, by the way, is still in the picture, that the union was not bargaining in good faith because it was being represented by people who were trying to overthrow all industry, not only the Kohler Co. but all industry.

Senator CURTIS. Would you yield for a question right there?

Mr. KENNEDY. Yes.

Senator CURTIS. On this investigation business, did you hire a detective agency to investigate any of your employees?

Mr. CONGER. No. Unless we did hire them to catch people who were guilty of vandalism. If they had been employees, then——

Senator CURTIS. No, I am talking about putting them on the trail of some individual to see what they could find out about them, their families or their past.

Mr. CONGER. No, sir.

Senator CURTIS. You did not use detective agencies to ferret out the past of your employees?

Mr. CONGER. No. We did at a later time use this detective agency to make checks on people who were applying for employment, to see whether they had a police record, what their character was in their home community, and so forth. We made what you might call a trial run of that.

We never had them check our employees and their records and their past. I gave them strict instructions from the beginning as to what their activity should be, and that we were not wanting them to check legitimate union activities of anyone. We wanted them to check only illegal activities such as we specified.

Senator CURTIS. But the people who were checked upon as individuals, and their pasts, were not your employees, but were the people from away from there, the outsiders who came in connection with this strike, is that correct?

Mr. CONGER. That is correct, except in checking the vandalism there were some of our employees suspected, and in this dynamite cache there was three employees. They were checked in that regard.

Senator CURTIS. But that was to find out who had done a specific thing.

Mr. CONGER. That is correct.

Senator CURTIS. I am talking about the question of looking up people's past, what had happened years before, and who they are, their previous employment, and so on.

Mr. CONGER. The only thing—and there was 1 occasion when 1 of the Schraders, Franklin Schrader, and 3 others, were charged with assault with intent to do great bodily harm, and also assault, in Calumet County Court, and we did have them check from Mr. Franklin Schrader's past criminal record at that time.

Senator CURTIS. These personal investigations that have been complained of have been, by and large, the investigation of the outsiders who came in?

Mr. CONGER. That is correct.

Senator CURTIS. What was the report on Emil Mazey?

Mr. CONGER. I would say it was pretty much negative. At least, we never had enough that we felt we could use it in defense. As a matter of fact, we were prohibited from using the defense.

Senator CURTIS. Negative for the purposes that you set out to get it?

Mr. CONGER. That is correct.

Senator CURTIS. When you say later on you investigated the background of applicants for jobs, were some of those applicants non-residents of the immediate area?

Mr. CONGER. Yes. I don't think we ever had them investigate, to my knowledge, anybody who was a resident of the area. It was only when they came from some distance away.

I might explain that the union was partially responsible for that one, too, because they published in their Kohlarian one time, through some inadvertence, that apparently we hired a fellow who had a criminal record, and they made a great to-do about it, so we started checking criminal records.

Mr. KENNEDY. So you investigated Robert Buckhart, his background, and Emil Mazey. Can you think of anyone else that you investigated?

Mr. CONGER. I can't at the moment. There might have been.

Mr. KENNEDY. Did you investigate Mr. Frank Wallich?

Mr. CONGER. I think they did make a little spot check of him; yes.

Mr. KENNEDY. An investigation of him. What was his position?

Mr. CONGER. He was the publicity man for the union.

Mr. KENNEDY. And you thought that you should have an investigation made of him also?

Mr. CONGER. That is right. He was telling people that we were murderers, and immoral, morally irresponsible, making vicious personal attacks on the officers, what we considered was a very Com-

munist type of propaganda, and we wanted to see what his background was.

Mr. KENNEDY. So you made an investigation of him. Can you think of anybody other than Burkhart, Emil Mazey, Frank Wallich?

Mr. CONGER. I believe Mr. Treuer, the succeeding publicity man, was also checked.

Mr. KENNEDY. Robert Treuer?

Mr. CONGER. Yes.

Mr. KENNEDY. You made an investigation of him, is that right?

Mr. CONGER. Yes, I think so.

Mr. KENNEDY. Why did you make an investigation of him?

Mr. CONGER. For the same reason.

Mr. KENNEDY. What sort of information did you find out about him?

Mr. CONGER. I would say it was pretty much negative.

Mr. KENNEDY. Did they report that his wife worked for a Congressman, a Democratic Congressman, part of the report?

Mr. CONGER. That was reported, but we didn't think that was an offense.

Mr. KENNEDY. But you wanted to have that kind of information, did you?

Mr. CONGER. No. When anyone makes a report on anyone, they include certain background information on it.

Mr. KENNEDY. What sort of information were you looking for if they reported that the man's wife worked for a Democratic Congressman? What sort of information were you trying to find?

Mr. CONGER. You are talking about Treuer. No, that report was not made with respect to Treuer, but it was made with respect to Mr. Wallich, and I think the report said that at that time Mr. Wallich was resigning his position and going to work for the same Democratic Congressman.

Mr. KENNEDY. That was the kind of information or the sort of information that you would want to have?

Mr. CONGER. No, that was the sort of information that we got, along with the report. We didn't ask him to check as to whether or not he was connected with any Democratic Congressman, Republican Congressman, or any other Congressman.

He gave us certain background information, the same as he might have given us his birthplace.

Mr. KENNEDY (reading):

These informants further advised the writer that Mrs. Wallich had taken an active part in the Democratic campaign of 1954, and that as a reward she was named administrative assistant to her Congressman in Milwaukee.

Mr. CONGER. That certainly was no news to us.

Mr. KENNEDY (reading):

Mr. Wallach was going to accompany his wife to Washington, possibly.

That is another part.

Mr. CONGER. That, I think, was a little new to us, but the first part was no news to us, because Mr. Wallich was doing that quite openly and publicly, and we knew what has happening.

Mr. KENNEDY. You wanted to get whatever information you could on all of these people, is that right?

Mr. CONGER. We wanted to get, primarily, information about any subversive background or connection that we could use as a defense in our NLRB case.

Mr. KENNEDY. That is the reason you were checking these people?

Mr. CONGER. That is correct.

Mr. KENNEDY. Was there anybody else you checked besides Treuer, Wallich, Mazey, and Burkhart?

Mr. CONGER. I don't remember any at the moment. If you have some more there, I may recall it.

Mr. KENNEDY. How about Dave Rabinovitz, the attorney for the union?

Mr. CONGER. That came at a much later stage.

Mr. KENNEDY. That refreshes your recollection, though?

Mr. CONGER. Yes, it does. I had forgotten that. That was quite recently, when Mr. Madson reported to me that he had information somewhere as to a David Rabinovitz who had been connected with the Communist Party in Philadelphia, and I told him I didn't think there was anything to that report because to the best of my knowledge Mr. Rabinovitz had never been in Philadelphia or Pennsylvania, but he asked permission to check it out. I gave it to him and the result of the report was that that was an individual with a somewhat similar name but an entirely different individual.

Mr. KENNEDY. And they made an investigation in Philadelphia, Pa., on him, is that right, on the union attorney.

Mr. CONGER. Yes.

Mr. KENNEDY. On your instructions?

Mr. CONGER. That is right. On my approval.

It was Mr. Madson's suggestion in the first place. I told him I didn't think he was going to get anything, but I was willing to let him try.

Mr. KENNEDY. Is there anybody else that you can think of?

Mr. CONGER. I can't think of anyone else.

Mr. KENNEDY. What about a Mr. Brown? Did you make an investigation of Mr. Brown?

Mr. CONGER. Yes. He came—a very short one. One time we were notified that he was replacing Mr. Burkhart, and that was down at the Chicago meetings. We asked him to check his background and we found out in about 2 weeks that he wasn't replacing Mr. Burkhart at all.

Mr. KENNEDY. Did Mr. Brown appear on the scene at all?

Mr. CONGER. He appeared at the Chicago negotiating meetings in July and August of 1955.

Mr. KENNEDY. He was listed to replace Mr. Robert Burkhart?

Mr. CONGER. That is what we were advised.

Mr. KENNEDY. So you started to make an investigation of him at that time?

Mr. CONGER. That is right.

Mr. KENNEDY. Just because he was listed to replace Mr. Burkhart?

Mr. CONGER. Yes. Because he was an official of the union and we still had an NLRB proceedings going on at that time. That took place during an adjournment.

Mr. KENNEDY. So you felt that you should have a detective agency investigate anybody associated with the union?

Mr. CONGER. We felt, Mr. Kennedy, that it was a very good defense to the NLRB charge that the people we were dealing with were actually subversive. That is what we wanted to find out. We did find out that with regard to Mr. Burkhart.

Mr. KENNEDY. What do you mean you found that out with regard to Mr. Burkhart?

Mr. CONGER. We found out the same information that has come to light in that from this committee. I believe it came from those files that he was a member of the Socialist Workers Party, had been for many years.

Mr. KENNEDY. I don't remember any information that he is subversive now that came before the committee.

Mr. CONGER. I have a good deal of information that he is subversive now. That is how I happened to start checking him. I hadn't dealt with that man for more than 2 weeks before I realized the character of the individual that I was dealing with, and what his philosophy was.

Mr. KENNEDY. You said we had developed before this committee the fact that he was subversive. The information developed before the committee was that he was a member of the Socialist Workers Party back in 1947.

Mr. CONGER. I call that subversive.

Mr. KENNEDY. You call that being subversive at the present time?

Mr. CONGER. I say to you that I do not believe a word of his testimony—let me put this this way: That he may have left the Socialist Workers Party, but my dealings with him showed very clearly that the Socialist Workers Party had never left him, that his attitude and approach to all these situations was the attitude and approach of a confirmed Communist, which I believe, whether he is an active party member or not today, he still is.

Mr. KENNEDY. The only thing is we are still dealing with facts, Mr. Conger, and not what you think of a particular person who is working on the other side. We have to deal with facts.

The other situation, as far as Burkhart is concerned, the information that you got was on the payment of money to people to make statements about Mr. Burkhart. That is shown clearly.

Mr. CONGER. Is that reprehensible?

Mr. KENNEDY. I think it is highly questionable. I think if somebody has information, he should be willing to supply it. But I don't think you should supply information and give an affidavit for \$350. for instance.

Mr. CONGER. Hasn't it been proven that the affidavits we were given were correct?

There was no false information. Mr. Burkhart came here and admitted that what was in those affidavits was correct. I don't see anything wrong with it.

Mr. KENNEDY. That is not correct.

The information that was developed before this committee was that he was a member of the Socialist Workers Party up to 1947 which I understand he agreed to.

Your affidavits go further than that. I think the point is, again, that you made a statement as to what you think and made a state-

ment as to fact, and the second thing is that you got this information based on paying somebody \$350 to make a statement about Robert Burkhart.

Mr. CONGER. Which statement was correct.

Mr. KENNEDY. Well, that is open to question.

Mr. CONGER. It is not open to question.

Senator CURTIS. On that point, I think it was brought out here that Mr. Mazey offered \$25,000 of union money for information about some attack upon Walter Reuther.

I don't know whether that is good or not, but \$25,000 is a good size temptation.

Mr. KENNEDY. I think it is a reward for information. This is paying somebody money at the particular time in order to get information that he is supposed to have. That is the difference.

Senator CURTIS. I would like to ask something about what you said about the Socialist Workers Party.

Are you talking about the ordinary Socialist Workers Party of the country headed by Norman Thomas, or is this another party.

Mr. CONGER. This is another party. It is a splinter Communist group which follows the teachings of Leon Trotsky, and which, I believe, is an even a more revolutionary group than the Russian-Communist type.

Senator CURTIS. Well, I don't know, but it is generally understood by writers and referred to as a Trotskyite group?

Mr. CONGER. That is right.

Senator CURTIS. It is not to be confused with the general Socialist Party headed by Norman Thomas?

Mr. CONGER. Not at all. It is a different thing.

Senator CURTIS. I totally disagree with the Socialist Party, but I did not want this exchange here to give the impression that the Socialist Party of the United States, and everybody connected with it, that there was some derogatory information as to their character or loyalty or something like that.

Mr. CONGER. This is not the Socialist Party. It is the Socialist Workers Party, an entirely different thing.

Mr. KENNEDY. Were you going to furnish the affidavits that you secured to the National Labor Relations Board?

Mr. CONGER. No. Our intent was to call Mr. Robert Burkhart before the National Labor Relations Board, and on that basis, question him.

Mr. KENNEDY. What were you going to do with the affidavits?

Mr. CONGER. I couldn't do anything with them. I got those just to be sure that my information was correct. My plan was to call Mr. Robert Burkhart before the National Labor Relations Board and ask him about these things, and then, if he defied them, to call some of these people as witnesses to prove the case, the same thing that any lawyer does in any case when he has a defense.

Mr. KENNEDY. It says on one of them. "No threats or promises of any kind were made to me to secure this statement and it is purely voluntary on my part," when, in fact, this particular woman received \$160 for making the statement, or \$360 for making the statement.

Mr. CONGER. Well, I don't think that is necessarily a promise. I think they got it. They already got it. I won't quibble about that. I was never intending to use those affidavits. They came in to me.

I doubt if I asked Mr. Madson even to get affidavits. An affidavit you can't put in evidence in an NLRB proceeding. At least I don't think you can. We never tried.

Mr. KENNEDY. Did you make an investigation of anybody else other than Burkhart, Mazey, Rabinovitz, Treuer, and Brown?

Mr. CONGER. I can't recollect any.

Mr. KENNEDY. Did you make any investigation of any Government official?

Mr. CONGER. No investigation of any Government official. At one time, Mr. Madson and Mr. Adams associated with him, and this was during the dynamite cache days, were sitting in Chief Walter Wagner's office.

Mr. KENNEDY. Just answer the question. Did you make any investigation or study of any Government official, of anybody having anything directly to do with the National Labor Relations Board?

Mr. CONGER. I was trying to explain that. I don't know whether you call that an investigation or not. If you insist on a "yes" or "no" answer to that, I will say "No."

Mr. KENNEDY. You did not, is that right?

Mr. CONGER. If you insist on a "yes" or "no" answer and will not let me explain it.

Mr. KENNEDY. I am not insisting.

The CHAIRMAN. You may explain it.

Mr. CONGER. At one time, Mr. Adams and Mr. Madson were sitting in Chief Walter Wagner's office. This was just about the time of the discovery of the dynamite cache. Mr. Gore came into that office.

Mr. KENNEDY. Who is Mr. Gore?

Mr. CONGER. Mr. Gore is an attorney for the NLRB.

Mr. KENNEDY. What is his first name?

Mr. CONGER. Albert Gore. He is no longer an attorney for the NLRB, but he was at that time. I understand he is now a lawyer or associated with a firm of lawyers that does work for unions.

But at that time he was with the NLRB. He made some statements to the chief that if this dynamite cache thing was solved or some of these vandalisms were solved, it would wreck his case.

It was such a surprising statement that these detectives referred it to me and made affidavits on it which I did not ask them to do. Then at a later stage, we were being bedeviled with continual postponements of this NLRB case.

May I say at this point, that I think the only purpose that the NLRB case was ever brought, and it wasn't brought until 3 months after the strike had started and then we were accused of not having bargained in good faith before the strike—the reason it was brought at that time was to act as a bar to any possible election, and it was operated in that way.

There were continual postponements and postponements after postponements, and a good many of them on the ground of health of NLRB counsel or relatives.

At one time Mr. Gore asked for an adjournment and a postponement on the ground that one of his relatives, I believe a relative-in-law had had an operation. I was frankly a little bit suspicious, and I asked Mr. Madson, when he went down to Chicago, if he could stop by and see if that actually was the case.

It turned out that he had had a minor operation, and I don't think it was an awfully good excuse to postpone a hearing but I didn't make any point of it.

Mr. KENNEDY. I just want to read the letter of Investigators, Inc., April 4, 1956:

DEAR AL: I am not going to mention the name of the subject as no doubt you probably would rather have it handled that way. We found he was born in Chicago, Ill., on July 9, 1922, and his father's name is Johannes Lewis, and his mother's name is Minnie Eisenberg.

At the time of his birth, father's age was given as 28 and his mother at 29, and father's occupation was that of a butcher, and place of birth was Russia.

I did not attempt to get the exact dates that he has been with his present connection but we know it has been at least since 1951. Using a suitable pretext, contact was had with his wife. She confirmed the fact that her father-in-law's first name was Lewis although she spelled it L-o-u-i-s.

During this contact, she advised that her father-in-law was presently in the hospital and undergoing a minor operation during the past weekend. It was also learned that subject's father lived with them, apparently the parents are subject to being separated or divorced although this was not confirmed.

After your talk with Bill Carroll, it was decided a second attempt would be made to contact the wife, using the pretext, as it was felt that the pretext was good enough to follow through.

On the second call it was definitely learned that subject's father is in a local hospital, but we are unable to ascertain the name. We attempted to secure an address at which he could be reached, and we were informed his mailing address was subject's home.

We also attempted to learn when subject's father was expected to be released from the hospital and the only reply we could get was maybe several weeks.

In conversation the wife suggested her husband be contacted and she expected him Thursday or Friday of this week. In accordance with your instructions, the matter was dropped at this point.

The attorney for the National Labor Relations Board is to present a case, and when he is presenting a case before the National Labor Relations Board and the trial examiner, you have an investigation made of him, as well as the investigation made of all of these other people.

Mr. CONGER. I think that I had a perfect right to investigate whether his reason for asking for a postponement of that case was bona fide or a phony.

The CHAIRMAN. Are there any other questions before recess?

Senator CURTIS. Not necessarily before recess.

The CHAIRMAN. The committee will stand in recess until 2 o'clock.

(Whereupon, at 12:20 p. m., the committee recessed, to reconvene at 2 p. m., Wednesday, March 19, 1958.)

AFTERNOON SESSION

(Members present at the convening of the session were Senators McClellan and Curtis.)

The CHAIRMAN. The committee will come to order.

If it is satisfactory to Senator Curtis, I will ask you gentlemen to stand aside for about 5 minutes until we hear another witness.

I would like to ask the reporter to have the testimony of Mr. Vinson come at the conclusion of Mr. Conger's testimony in the permanent record.

The CHAIRMAN. Come forward, Mr. Conger.

TESTIMONY OF LYMAN C. CONGER—Resumed

The CHAIRMAN. Mr. Conger, you will resume the witness stand. Counsel, you may proceed.

Mr. CONGER. May I have just a moment for a statement, Mr. Chairman?

The CHAIRMAN. All right.

Mr. CONGER. I was asked this morning to submit another exhibit with reference to the statements of the union as to the contract at the time they signed them and I thought I could produce it in 2 or 3 days. But with a very efficient secretary and the televising of this program, I am able to produce it now.

The CHAIRMAN. That is all right. I already designated that it should be No. 102, I believe. I have already designated it as an exhibit number when produced. It may be received now and given the designation that the Chair gave it this morning.

You may comment on it if you wish.

Mr. CONGER. This is the Kohlerian of February 26, 1953.

I will call particular attention to page 11, entitled "We Won a Good Contract."

In money, 12 cents an hour general wage increase, increased minimum rate for job from 75 percent of maximum to 80 percent of maximum rate. Fifteen cents automatic progress in 20 weeks' span to 5 cents over minimum, increased hiring rate from 87 cents to 10 cents below minimum, and then several plus values: Retroactivity, full arbitration, standard seniority system, checkoff of union dues, increased call-in pay, 3 months' wage reopener, revision of wages and hours in enamel shop, insurance for pensioners, 3 weeks' vacation after 15 years of service, joint study to revise and simplify day-rate wage structure, joint study on skilled trades problem, joint study on improvements in medical and insurance, and pensions.

I would also like to call attention to the editorial on page 2. I will read just a portion of it:

The more we look at this contract, the more we think it is a good contract and that we can have pride and that we have been very reasonable with the Kohler Co.

Kohler Co. has made some key concessions, particularly in arbitration and in union security. These were two things that the company fought very hard and I think it will encourage Kohler in future collective bargaining to know that we take a reasonable view of these things.

Also I would like to refer to page 8, which is a report of a speech by Emil Mazey and particularly to the provision entitled "Contract Reopener."

They have agreed to a 3-month opening of the contract for general wage increases, and I want to state that when this last item was originally given to us, we were a little skeptical about it, but the more we looked at it the better we liked it because it is one of the ways we have of making some more progress in 1953.

And under the heading on that same page is "General Improvements." Mr. Mazey says—

The general provisions of the contract were greatly improved. I think it was Chris Zittel who this morning stated that we have made more progress in this single set of negotiations in improving the contract than you had made previously in 17 years of activity on the part of the old union.

The CHAIRMAN. I would also like to refer to the picture and the caption on page 6, entitled "All Smiles," in which appears the pic-

tures, among others, of Emil Mazey, Jesse Ferrazza, and Harvey Kitzman. It says—

Members of the bargaining committee are mingled with staff; glad a good contract was won.

The CHAIRMAN. All right, we will proceed.

Senator CURTIS. Which contract is that, that all of this is expressed about? That is the contract that expired.

Mr. CONGER. The one of February 23, 1953, that expired on March 1, 1954.

Senator CURTIS. You had another exhibit where you made an offer in writing to extend it?

Mr. CONGER. Yes, sir.

Mr. KENNEDY. Mr. Conger, we were discussing this morning about some of these individuals that you were having the detective agency investigate, and about the fact that some of the individuals that were reporting to you, the informants were being paid.

Could you tell the committee how many paid informants you had during this period of time?

Mr. CONGER. I had none other than the detectives, and I don't know how many they had.

Mr. KENNEDY. How many did the detective agency have?

Mr. CONGER. I don't know.

Mr. KENNEDY. Did they not make a report to you?

Mr. CONGER. They made no report to me on that. There were items in their bills for information.

Mr. KENNEDY. How many did they list in their bills, as far as paid informants?

Mr. CONGER. I could not tell you that, I haven't checked that.

Mr. KENNEDY. Are these the bills that were submitted? Would you check these?

The CHAIRMAN. I will have to ask Mr. Bellino, did you secure from either the Kohler Co. or its detective agency photostatic copies of bills submitted by the agency to the Kohler Co.?

TESTIMONY OF CARMINE S. BELLINO—Resumed

Mr. BELLINO. Yes, sir.

The CHAIRMAN. Are these the bills which you secured?

Mr. BELLINO. Yes, sir.

The CHAIRMAN. These are photostatic copies of them?

Mr. BELLINO. Yes, sir.

The CHAIRMAN. They may be made exhibit No. 104.

(Documents referred to were marked "Exhibit No. 104", for reference.)

The CHAIRMAN. Those are for reference only.

TESTIMONY OF LYMAN C. CONGER—Resumed

Mr. KENNEDY. There were quite a number of them, were there not, Mr. Conger?

Mr. CONGER. I think over the period of about 4 years, and an investigation covering quite a bit of the country, there were quite a number of them, and I don't know how many there were.

Mr. KENNEDY. Probably a dozen or 15 paid informants, that you had, throughout the country, would that be about right?

Mr. CONGER. If you include everyone from whom they gave a gratuity or paid for any information, I presume it might be a dozen or 15.

Mr. KENNEDY. This is listed as informants and the money paid to them. There were at least a dozen.

Mr. CONGER. I would think that that is a fair estimate.

Mr. KENNEDY. Is that correct, and that is throughout the country and during this period?

Mr. CONGER. Yes.

Mr. KENNEDY. We spoke this morning about the checking on employees and in reply to a letter or a question of Senator Curtis, you did have some method of checking on the activities of the employees, did you not?

Mr. CONGER. Their activities on the picket line, yes, and we check, and we took photographs, and we kept a record of what was going on, on the picket line day by day, and we took a good many photographs, many of which have been introduced here.

Mr. KENNEDY. And then you had these reports that we discussed a week or so ago, about the activities of some 900 strikers.

Mr. CONGER. Yes, those reports were originally gotten for the purpose of providing evidence in our WERB proceeding, and later on in the contempt proceeding, and the NLRB proceeding.

We kept activities, and I may say to you very frankly, that it was no surprise to me to have Mr. Burkhart come down here and testify that he had seen more violence on a New York subway than he ever saw on the picket line, because he gave that same testimony in the WERB, only there I think that he compared it to a bargain sale, or a basement bargain sale.

We knew that when we went into the WERB, we were going to be faced with that kind of testimony, and so we prepared to have the evidence to prove our case.

Mr. KENNEDY. Well, we had some question about the correctness of these reports when we submitted them before, and I believe that a representative of your company has checked through them, and has found that they were accurate.

Mr. CONGER. I believe there is an index in the front of them, that is not a part of our making, and I think from the tab A they are correct, and of course the designation, the tab that was stuck on them, certainly did not represent our opinion.

Mr. KENNEDY. There was a question raised about them before.

The CHAIRMAN. What is that?

Mr. KENNEDY. These are the reports on the employees.

The CHAIRMAN. All right, Mr. Conger, you did keep a report or a record on reports of information you got on some of your employees?

Mr. CONGER. That is correct, during the strike; yes, sir.

The CHAIRMAN. Have you examined these documents, the four books or documents that I have before me here to determine whether they are correct?

Mr. CONGER. May I have Mr. Hammer, who made the examination, come up here a moment?

The CHAIRMAN. Has this witness been sworn?

Mr. HAMMER. Yes, sir.

TESTIMONY OF EDWARD J. HAMMER—Resumed

The CHAIRMAN. All right.

Will you step up here, please, and make an examination sufficient to satisfy yourself, and state whether you can identify these as records reflecting the reports kept or photostatic copies of the reports kept and received by the Kohler Co. regarding its employees?

Mr. HAMMER. Yes, sir.

The CHAIRMAN. They are?

Mr. HAMMER. Yes, sir; with the exception of these pages right here, Senator, these are not ours.

The CHAIRMAN. Does that occur in each one of the books?

Mr. HAMMER. Just this book.

The CHAIRMAN. Only one in that book, what is its number?

Mr. HAMMER. A through F.

The CHAIRMAN. And the book A through F, in that book, the sheets held there may be stamped as indicating they are not part of the exhibit, and the other four books have been made exhibit 44, for reference only.

Thank you very much.

Senator CURTIS. May I ask the witness a question?

You have gone through this, have you?

Mr. HAMMER. Yes, sir.

Senator CURTIS. To determine that substance?

Mr. HAMMER. Yes, sir.

Senator CURTIS. These reports or records on the employees, does that concern things that happened during the duration of the strike?

Mr. HAMMER. Yes, sir; and I might add that certain items that are not exactly picket line activities are activities relating to unlawful conduct, and they were items which were picked out of union publications or out of newspapers.

Senator CURTIS. But it was a record of things that were happening more or less currently during the strike?

Mr. HAMMER. Yes, sir.

Senator CURTIS. When this matter arose this morning, there were questions about employing detectives to go back into the record of years before, of individuals, and their names, and their relatives, and their private lives, and their domestic lives.

Is that what that sort of record is?

Mr. HAMMER. No, sir.

Senator CURTIS. But it is a record of happenings during the duration of the strike?

Mr. HAMMER. That is correct.

The CHAIRMAN. All right, we will proceed.

TESTIMONY OF LYMAN C. CONGER—Resumed

Mr. KENNEDY. Was there a plan submitted by the Madson Detective Agency to deal with the employees and deal with your security within the plant?

Mr. CONGER. Well, I wouldn't say to deal with the employees. At one time they suggested to us that they could improve our plant

security and would like to have the opportunity to make a check, and make some recommendations.

They did that, and they went through the plant, and I believe they did make some recommendations.

Mr. KENNEDY. Did you put any of the recommendations into effect?

Mr. CONGER. I don't believe that we did, and I can't recall any specific ones that we put into effect.

Mr. KENNEDY. They had a recommendation dated February 23, 1955, about the plant police or guard force, and how it was selected and the duties of the guards at the gate.

Do you have that report there?

Mr. CONGER. What date is that, Mr. Kennedy?

Mr. KENNEDY. February 23, 1955.

Mr. CONGER. Yes, I have it.

Mr. KENNEDY. Did you put that plan No. 1, of the plant police and guard force, did you put that into effect?

Mr. CONGER. I am not certain, not completely, I may say that much of it I think already was in effect.

The part "A," complete investigation of all applicants by security officer and staff, was never placed in effect. The guards at the gate we had, and the patrol inside the plant area we already had and the fire and industrial hazards were already being checked, periodic check of safety equipment was already, in my opinion, being done, and they may have thought it should have been done more adequately.

The periodic check of employees for theft or pilferage was never done to my knowledge.

Mr. KENNEDY. What about section 2, on the next page, that is plant informants?

Mr. CONGER. Nothing was ever done on that.

Mr. KENNEDY. The selection by the security officer, duties to report on theft and pilferage.

Mr. CONGER. In the first place we never had a security officer, and we never put any of that into effect.

Mr. KENNEDY. You did not have any arrangements on that. One of the sections to report on labor movement, infiltration or problems, and you did not have any arrangements such as that?

Mr. CONGER. I think, Mr. Kennedy, the fact that this recommendation was made shows that we did not have at that time, and we did not put any in effect.

Mr. KENNEDY. You did not put anything in such as they suggested in this section?

Mr. CONGER. That is correct.

Mr. KENNEDY. Did you ever write them or inform them that you were not going to or did you have any discussions with them about it?

Mr. CONGER. I had some discussions with Mr. Elmer Madson about it, and told him that in my opinion that recommendation would be a rather dangerous one because it was almost bound to lead to information on legitimate union activities, which I thought was not a proper subject of investigation, and we did not want to get close to that area.

Mr. KENNEDY. Of course, in these reports that you have here, there are certainly reports on legitimate union activities, are they not, Mr. Conger?

Mr. CONGER. Those reports, you mean?

MR. KENNEDY. You have reports about what the people's children are doing, and where the people are working?

MR. CONGER. Well, if you are referring to one person's children harassing another person's child, I think that is not a legitimate union activity.

MR. KENNEDY. Well, it is a question of a discussion or conversation between a 13-year-old child and a 7-year-old child.

MR. CONGER. And there is some little bad language used, as I recall it, and there is a threat. In other words, what was happening there, Mr. Kennedy, is that this gospel of hate that was being preached through the union organism was going right into the schools, and where nonstrikers' children were being harassed by strikers' children, and having their lives made miserable.

Yes, that was of interest to us, very much interest to us.

MR. KENNEDY. And where the various strikers might set up other businesses, where they were going to work, that was of interest?

MR. CONGER. That was of interest, yes, sir; and if there had been any finding, or if we had finally decided to discharge one of those persons, and he had applied for back compensation and been successful, that would have been very much of interest to know that he had had another job in the meantime, or another income.

MR. KENNEDY. And dressing up as Abraham Lincoln?

MR. CONGER. That was just something that was copied out of their newspaper, Mr. Kennedy.

May I explain, as I did before, that I gave several people instructions to keep anything that they thought might be of interest to me. I told them not to try to make themselves into labor lawyers, but to put down anything that they thought might be of interest to me, and I would do the culling and I would do the evaluating, and I would do the separating afterwards.

The young lady who is now my secretary took over that job and did a very remarkable job on it. She was not a labor lawyer, and she put in the things that she thought might be of interest to me, and that one particular one was not of great interest to me, but it did appear in a union newspaper and I don't think that there is any great espionage in copying down something that appears in a public newspaper.

Senator CURTIS. Will the counsel yield there?

Coming back not to this one about someone dressing up as Abraham Lincoln, but in reference to a notation of someone else's employment or income, you said that might be of interest if that employee would be one who would be let go or discharged and ordered taken back; were his wages retroactive?

You said that might be of interest. What I want to know is does it become a material fact in how much such a person might have coming to him.

MR. CONGER. Yes; if there is a back pay award, the back pay awarded is the difference between the money that he did earn during that period, and the money that he might have earned had he been working at the Kohler Co.

Senator CURTIS. As a matter of law, that is true?

MR. CONGER. Yes.

Senator CURTIS. I did not understand what you said, when you said you might be interested.

Mr. CONGER. I may say that in this case, that particular gentleman I know was not discharged, and so that issue never arose.

We take the position, and I think it would be a very sound one, that we would have had a legal right to discharge every one who has ever appeared on that mass picket line during the mass picketing days.

We didn't choose to exercise that right to the fullest, and we exercised it to discharge those who in our opinion were the leaders and directors of this illegal conduct, and who had been the most flagrant, shall we call it, participants in it.

Mr. KENNEDY. I could understand certainly the checking on people and keeping a report on those who engaged in illegal or improper activities and that you would have to have some files such as this to insure that that information was available.

The only question I am raising is the point that you have files there on over 900 employees, and that much of the information in there has nothing to do or would appear to have nothing to do with anything improper or illegal activities, such as somebody's child getting into a fight with somebody else's child, or playing baseball and the ball goes on the Kohler Co.'s property twice, and he comes in to retrieve the ball.

It does not seem to me that that is something that is worth noting in somebody's dossier.

Mr. CONGER. As to the first one I think it is worth noting in somebody's dossier when you have this doctrine of hating going into the children and affecting children. I think that is one of the most vicious, that could possibly happen, to be trying to harass children, innocent children because their father chooses to exercise his right as an American citizen to work.

As to the other one, I will say this: You have a certain number of sea lawyers around any place. When that ball went on to the Kohler Co. property, that was a trespass. Now to me that wasn't anything serious at all. It wasn't the kind of a trespass I would take note of.

But apparently whoever made that report thought that the fact that this man had trespassed on Kohler property was something that I would like to know about.

I had instructed them not to try to be labor lawyers, and not to try to evaluate this thing, but to report anything that they thought I might be interested in, and I would do the culling out later on as I did in cooperation with my other associates.

(At this point, the following members were present: Senators McClellan, McNamara, Mundt, and Curtis.)

The CHAIRMAN. Did you ever cull anything out?

Mr. CONGER. Nothing was ever removed from these books, Senator. We had other lists——

The CHAIRMAN. Are these the complete files?

Mr. CONGER. Those are complete files. Then from those files other lists were made of people and those——

The CHAIRMAN. This is the original. This is all that was reported to you and documented and filed away?

Mr. CONGER. Yes. As a matter of fact, Senator, that particular thing was never reported to me. I never saw those books until they appeared, or shortly before they appeared, as an exhibit in the NLRB case.

Mr. Desmond made excerpts of some of the fellows who appeared to be the prime candidates and the leading spirits in there. That is all I ever saw. These were the original documents. What I worked with, even at the time that we made the discharges, was not these books, but what Mr. Desmond had reported to me on a list, and those lists——

The CHAIRMAN. Did he get his information out of these books?

Mr. CONGER. He got his information out of those books, yes, sir.

Mr. KENNEDY. We had some discussion here regarding the surveillance of the headquarters of the union. Were there any attempts to have a stake out or watchmen over the union headquarters or the hotel rooms of the union?

Mr. CONGER. Yes; there was an attempt to put a watch over there, and it was watched. We wanted to see whether that was the source of the vandalism, whether people could be traced from there to the acts of vandalism. Yes, sir.

Mr. KENNEDY. And who did you have doing that, watching?

Mr. CONGER. That was Mr. Madson and Mr. Adams.

Mr. KENNEDY. Is that in addition to the informant that they had working in the strike kitchen?

Mr. CONGER. Yes. They also conducted a stake out, I guess that is the police term for it, on the homes of a couple of individuals who had been reported to me by a rumor as prime suspects in the vandalism. I know they watched for a while at the home of one individual who was suspected of being the manufacturer of these paint bombs.

Nothing ever came of it. But they did check.

Mr. KENNEDY. In addition to the union headquarters, did they have a surveillance on the hotel room of the strike leaders at the Grand Hotel?

Mr. CONGER. I think they were in and out of the Grand Hotel, where most of the outsiders were staying, from time to time. They wanted to know whether they were coming and going in such a way that they might be identified. I will say that those individuals were prime suspects in the vandalism.

Mr. KENNEDY. Was there discussion with you about putting a mike in the union headquarters?

Mr. CONGER. Not in the union headquarters. I don't recall any discussion about the union headquarters. There was discussion about the possibility of putting a mike in a room next to one of the rooms that the unions had in the Grand Hotel. The discussion was had, and I vetoed the suggestion and I don't think—I am positive it was never done.

Mr. KENNEDY. Was there also discussion about tapping the telephone wires?

Mr. CONGER. I recall no discussion about tapping the telephone wires, although you will find that in one of these written reports, a suggestion of that, but I don't recall any discussion of that.

Mr. KENNEDY. Why did you veto the idea of putting a mike in the room of the union?

Mr. CONGER. Well, let me say this first, Mr. Kennedy, that I don't know of any law that would make that illegal. The reason I vetoed it was that my instructions to these detectives were that they were not to report ordinary union activities, ordinary strike activities,

anything of the type that might be legitimate union activities. I wanted them to report and investigate on the violence and the vandalism that was going on. I was very sure if this bug had been put there, that it would have gotten information on legitimate union activities that I was not concerned with and didn't want reported.

Mr. KENNEDY. Is that why you said that you didn't want the bug put in the room, because you felt that you might get information that would be just on union activity?

Mr. CONGER. That is right.

Mr. KENNEDY. It wasn't because of the fact that you thought that it should just be postponed temporarily?

Mr. CONGER. No, it wasn't. That is a little misreading of that one report, Mr. Kennedy.

Mr. KENNEDY. Why don't I read the reports in this connection?

Mr. CONGER. I want to say that one time during the NLRB proceedings, Mr. Madson came to me and I told him I wouldn't have much time to talk to him until those were over. It was not the idea that it was going to be postponed, it was just the idea that I wasn't going to agree with it and didn't have time at that time to discuss it with him.

Mr. KENNEDY. This is report No. 3, page 5:

A physical surveillance was conducted of the UAW-CIO headquarters in downtown Sheboygan with the possible idea of putting in a mike. But this place does not lend itself physically to such a setup; moreover, there had been no night activity in this headquarters. Efforts can be made with a confidential informant to determine whether a telephone tap on the Grand Hotel is feasible. These matters will be discussed with Mr. Conger and a future course of action will be outlined.

Then later on, report No. 12, page 8:

While in Sheboygan, the writer also made contact with informants who advised that they have not yet been able to ascertain where Burkhart is living at the present time. It is also determined by these informants that when they receive any information they will immediately communicate with the writer. Further it was determined that it might be possible to rent room No. 31, the room next to that room commonly occupied by individuals of the staff of the UAW-CIO striking group.

It was felt that this could be possibly utilized during the week of the NLRB hearings in Sheboygan. Further discussion of this will be had with Mr. Conger during the coming week.

What was decided on that?

Mr. CONGER. It was decided not to do it. In the first place, let me call your attention to the first one, that "will be discussed," that is with reference to the possible telephone tap. To the best of my recollection and belief that never was discussed.

The other one was discussed and I vetoed it for the reason, and instructed Mr. Madson not to do it, for the reason that I gave previously.

Mr. KENNEDY. "It was felt that this could be possibly utilized during the week of the NLRB hearings," and then about renting room No. 31. Did they rent room No. 31?

Mr. CONGER. Not to my knowledge.

Mr. KENNEDY. Did they rent a room at the Grand Hotel?

Mr. CONGER. They may have rented a room overnight. I do not know what the number was. I know they didn't rent a room continuously there. I wouldn't say they didn't stay there overnight. They may or may not.

Mr. KENNEDY. Did they rent a room to conduct physical surveillance?

Mr. CONGER. I don't know whether they did that or not, for sure. I don't know whether they did or not. I know they had some physical surveillance of people coming and going, particularly outsiders at night, when the vandalism was taking place.

Mr. KENNEDY (reading) :

February 1, 1955, on this date, Mr. Madson conferred with Mr. Conger and Mr. William Howell, regarding the investigation conducted previously and possible future investigation necessary to ascertain information required by the Kohler Co.

Mr. Madson also discussed the issue regarding the Grand Hotel, which information is not being set out in this report, inasmuch as Mr. Conger is aware of this conversation.

What was that conversation?

Mr. CONGER. I don't recall what it was.

Mr. KENNEDY. You don't remember that at all?

Mr. CONGER. I don't remember that.

Mr. KENNEDY. The issue regarding the Grand Hotel?

Mr. CONGER. I don't remember anything coming up with regard to the Grand Hotel. It probably was that they had been there and seen something.

Mr. KENNEDY. And report No. 4, page 2, it says:

2 a. m. This night a check was made of the situation at the Grand Hotel regarding room 30, which check was facilitated through the fact that the writer and Mr. Madson rented a room in the general vicinity of the Grand Hotel through Chief of Police Wagner, of the Sheboygan Police Department.

Mr. Madson and the writer determined that the situation was one which could be physically covered, however. Upon recontacting Mr. Conger, no further action is being taken at this time regarding this matter, which is not being explained fully here, inasmuch as Mr. Conger is aware of the same and has requested that we hold this line of investigation in abeyance pending the outcome of the NLRB hearing in Sheboygan during the week of February 7 through February 12.

Mr. CONGER. Yes. That is not very good language in that report. What actually happened was that I was busy with a hearing, and told them not to do it, and that we might discuss the matter fully later. I don't know that we ever did discuss it. At any rate, instructions were always not to place the microphone there, and it never was placed there.

I am very confident of that. At least, I never received any reports from it or any reports that might indicate that they came from any microphone or any source of that type.

Mr. KENNEDY. Is this statement correct, then, that—

Mr. Conger has requested that we hold this line of investigation in abeyance, pending the outcome of the NLRB hearing in Sheboygan during the week of February 7 through February 12.

Mr. CONGER. It is not correct if you are trying to read into it an inference.

Mr. KENNEDY. I am just reading it.

Mr. CONGER. That at a later time it was done, that is not correct, or that at a later time I seriously discussed it, or if I entertained the idea at that moment, it is not correct.

Mr. KENNEDY. Did you tell them that you wanted to postpone taking this form of action until after the NLRB hearing?

Mr. CONGER. No. I just simply told them that I was busy with an NLRB hearing, and I didn't have too much time to discuss it at that time, and I didn't want it done.

Mr. KENNEDY. Then I would think that this statement is somewhat misleading, then, if those are the facts. It says merely that you will hold this line of investigation until——

Mr. CONGER. I think it is poorly phrased. Mr. Kennedy, may I say that I never read these reports from the standpoint of a pleading in a lawsuit. As a matter of fact, I didn't do any more than scan them.

I think there are some of them that I never read completely before this hearing came up. Everything that was in these reports had been discussed with me orally by Mr. Madson, and all I ever did with these reports was to check through them and see if there was something new he reported that he hadn't reported to me orally.

Mr. KENNEDY. Did you ever put a bug in the headquarters or any place else?

Mr. CONGER. No. None whatever was placed there to my knowledge, and I am very sure that I would have had knowledge of it had it been done.

Mr. KENNEDY. Did you use a mike at all in any of your activities?

Mr. CONGER. We used a mike, as I have testified previously, on the employment office, when we were trying to get evidence, from which we later convicted 16 individuals of contempt of court. There was also a microphone installed on the premises of the St. Luke's Hospital, during this picketing down there, which we called a secondary boycott, and when they were trying to claim that that was a citizens' picket line, which had no connection with the union, and I think as a partial result of that when some of them were brought up on an adverse examination on a suit by the hospital, at least 3 of them, and I think 4, went into court and took the equivalent, the State equivalent, of the fifth amendment.

Mr. KENNEDY. Where did you put the mike at that time?

Mr. CONGER. I don't know the exact location. It was on the grounds of the St. Luke's Hospital and with their consent. I don't know the exact location of it.

Mr. KENNEDY. Was it put near the picket line?

Mr. CONGER. It was put near the picket line, yes.

Mr. KENNEDY. So you could determine what the pickets were saying?

Mr. CONGER. That is right.

Mr. KENNEDY. Did the detective agency use a minifon at all?

Mr. CONGER. Yes, there was.

Mr. KENNEDY. It says on one of these reports that there was a purchase of a minifon.

Mr. CONGER. Yes, there was a minifon used. We had a report from one of our guards that Mr. Donald Rand had tried to bribe him to turn information over to him on what was going on in the plant, and also a strong suspicion that he was to be bribed to commit some sabotage in the plant.

We equipped that guard, and when I say "we," I mean the detective agency equipped that guard, with a minifon, and the conversation with Mr. Rand, purportedly with Mr. Rand, was reported to me

The minifon didn't work very well, and the conversation was pretty sketchy. After we had thoroughly checked it out I came to the conclusion that there wasn't too much to it and we never did anything about it.

Mr. KENNEDY. Did you arrange to determine or find out the letters that Mr. Burkhart was receiving, for instance, who he was receiving mail from?

Mr. CONGER. I think the agency did in trying to trace his whereabouts, to determine the original location of his wife, where she came from and her possible connection with subversive activities, did do that, yes.

Mr. KENNEDY. Checked the mail that he received?

Mr. CONGER. I think so.

Mr. KENNEDY. Do you know whether that is illegal, to interfere with the mails?

Mr. CONGER. There was no interference with the mail.

Mr. KENNEDY. Wasn't your agency making reports and finding out what mail he was receiving?

Mr. CONGER. They were doing it, as I understand, in cooperation with the police department, which, at that time, was checking his standing.

Mr. KENNEDY. Do you know anything about the statute covering that?

Mr. CONGER. I don't think——

Mr. KENNEDY. That is, making it illegal to interfere with the mails?

Mr. CONGER. I don't think there was anything illegal down there.

Mr. KENNEDY. If you tamper with the mails or take information——

Mr. CONGER. That was not tampering with the mails as I know of.

Mr. KENNEDY. Interference or tampering is explained to be any taking of confidential information off a letter or from the contents of a letter. Do you know anything about that?

Mr. CONGER. No, sir, I do not.

Mr. KENNEDY. Did you disapprove of this mail checking?

Mr. CONGER. It was all done before I ever got notice of it.

I did not disapprove of it, no. This particular lady was very active in strike affairs, and as has been testified here, was the lady who fingered Mr. Van Ouwerkerk for the assault on him later by Vinson. We were quite interested in that lady, where she came from, and what her background was.

Mr. KENNEDY. You were taking information on all the letters that he received; were you not?

Mr. CONGER. I don't believe it was taken on all.

Mr. KENNEDY. When he had correspondence from the union, those notations were made and you were informed what letters he was receiving, were you not, Mr. Conger?

Mr. CONGER. I don't recall any note in there about letters from the union.

Mr. KENNEDY. You say you were making reports only where he was receiving letters from a woman, is that right? Your reports tell of letters that he was receiving from others, from the union.

Mr. CONGER. I don't recall that. That may be true. But what we

were interested in was, at that time, determining Mrs. Burkhart, or the alleged Mrs. Burkhart's status, where she came from and whether she, too, had been a former or present member of a subversive organization.

Mr. KENNEDY. That is the mail that he was receiving. How about the telephone, the long distance telephone calls he was making? Did you arrange to check up on the long distance phone calls?

Mr. CONGER. I believe that any police officer can check what long distance calls are made by anyone. This was not a matter of tapping. This was a matter of checking the records of what calls had been made.

Mr. KENNEDY. We are not talking about the police. We are talking about you and your detective agency.

Mr. CONGER. I am talking about a detective agency that was working in cooperation with the police at that time, as has been testified to here.

Mr. KENNEDY. Were reports made to the Kohler Co. on the telephone calls that were being made by Mr. Burkhart while he was up there representing the union?

Mr. CONGER. Not on the contents of the telephone calls, but there were reports as to what positions had been called, what spots had been called, quite the same as I am confident that some of my telephone calls have been checked, not too long ago.

Mr. KENNEDY. These telephone calls were being checked as a private individual or a private citizen or a report was being made to you as a private citizen, is that correct?

Mr. CONGER. As I said before, Mr. Kennedy, these detectives, with our approval, were working in cooperation with the police department, with the FBI, with any law enforcement agency that would appear to be at all interested in law enforcement, and the same thing is true here.

The moment we found this investigation was underway, those reports were turned over to your staff. There isn't anything in those reports that we tried to conceal, or have ever tried to conceal. We wanted the staff to have them, and this committee to have them. We turned them over voluntarily.

Mr. KENNEDY. It says here on the mail cover, report 3, page 3:

Arrangements were made for a confidential informant to put a mail cover on the Burkharts in an effort to determine the mail sent and received by them, and any addresses that may be noted on them.

The CHAIRMAN. How was that operation carried out, this mail cover? It might be a little confusing. Just how was the operation carried out, for a mail cover?

Mr. CONGER. I never checked completely, but it was my understanding that it was through the cooperation of the police department.

The CHAIRMAN. What is a mail cover? To go to the office and find out what mail they have, and check it and then leave it there?

Mr. CONGER. No mail is read. It is just a question of seeing what the addresses are on the envelope, as I understand it.

The CHAIRMAN. I understand, but I don't understand how they get access to the mail.

Mr. CONGER. Well, I think the police had access to it. Whether they checked that from his landlady or from whom, I do not know.

The CHAIRMAN. I just didn't think they would have a right to go to the Post Office and say, "Let me see" so and so's mail.

Mr. CONGER. I have never thought so either.

The CHAIRMAN. I am just asking if that is the way this operation was carried on.

Mr. CONGER. I don't know how it was carried on. As I understand it, it was carried on in cooperation with the police department.

Mr. KENNEDY. It says in the reports:

Arrangements were made for a confidential informant to put a mail cover on the Burkharts in an effort to determine the mail sent and received by them and any addresses that may be noted on them.

There is a possibility that it might have been through the police department, but even there, if it was through the police department, they violated their trust by turning the information over to a private individual.

Mr. CONGER. No, they did not violate their trust. We were co-operating with the police department to try to solve these things, and those individuals in the police department who were sincerely trying to solve these crimes. As Mr. Wagner testified the other day, he was the one that recommended this private detective agency to me, and assured me that they would cooperate fully and he would cooperate fully with them.

And this detective agency at all times worked in complete cooperation with any law enforcement officer that seemed to be interested in actually finding these criminals instead of covering them up.

Mr. KENNEDY. You can make information available to them, but when they receive confidential information, then, of course, it is another thing as far as their making the information available to you, if they do receive it properly.

Mr. CONGER. Mr. Kennedy, it seems to me that there has been a great deal of to-do made about possible breaches of ethics by police officers who were sincerely trying to do their duty and quell this violence and this reign of terror, and that you don't seem to be much concerned about the actual criminal acts themselves.

We were very concerned about those.

The CHAIRMAN. We have gone into those pretty thoroughly. I think we have gone into them with everybody who has been here, haven't we?

Mr. CONGER. I think so. I was not addressing that to the Chair.

The CHAIRMAN. You were addressing it to the Chair? Well, the Chair tells you we have.

Mr. CONGER. I was not addressing it to the Chair.

The CHAIRMAN. Well, the Chair has full responsibility for the committee.

Proceed, Mr. Kennedy.

Mr. KENNEDY. How much did you pay the detective agency?

Mr. CONGER. I think over the 3-year period, or the 4-year period, somewhere around \$39,000.

Mr. KENNEDY. \$39,000?

Mr. CONGER. Fees and expenses.

Mr. KENNEDY. Is that the Madson Detective Agency?

Mr. CONGER. Yes.

Mr. KENNEDY. How much did you pay the Schindler Detective Agency?

Mr. CONGER. I think it was around \$3,700.

Mr. KENNEDY. I believe the record shows for the Madson Detective Agency it is \$40,114.23. Would that be correct, approximately?

Mr. CONGER. Well, it is close.

I thought it was the figure of thirty-nine-something, but I wouldn't argue with that figure.

Mr. KENNEDY. Did you feel that the strike during this period of time was supported by the employees, at least initially, the employees of the Kohler Co.?

Mr. CONGER. We knew that some of the employees were in favor of striking. It was our opinion from the very beginning, we stated it in ads, the first few days of the strike it was our opinion that a majority of our employees did not want to strike, and would not have struck, would not have stayed out of work, had they not been physically kept from getting to work.

That has been my opinion, and that has been confirmed by the testimony before this committee, that only about one-third of our employees ever voted for that strike.

Mr. KENNEDY. How many employees did you have?

Mr. CONGER. At that time—well, I will give you two figures. According to our count 3,318 and according to the union's count, I believe, 3,347. The difference is whether you include American Club employees who never did go out on strike or whether you take them out.

Mr. KENNEDY. So you had about 3,300 employees, and you feel that probably about at least 1,700 of them were not in favor of the strike?

Mr. CONGER. Well, I wouldn't want to give the numbers, because we were never able to determine the number.

Mr. KENNEDY. You said a majority.

Mr. CONGER. I am sorry. That is a majority. We felt that this was not a majority strike from the inception, and that had it been a majority strike, there would have been no necessity to keep these people out by physical means and by terrorism.

Mr. KENNEDY. How many of the 3,300, approximately, of those have come back to work?

Mr. CONGER. I would like to give you that figure exactly if I may.

I thought I had made a report of it in the notebook, but I guess I didn't.

I will have to estimate. I think there are somewhere around 1,300. However, Mr. Bellino did take from my files a report from Mr. Ireland. If I could see that report, I could give you that figure more accurately.

The CHAIRMAN. I hand you here what purports to be photostatic copies, I believe, of that report. Will you examine it and state if you identify it as such?

(Document handed witness.)

Mr. CONGER. Yes; I do identify it.

The CHAIRMAN. All right. From that can you testify accurately?

Mr. CONGER. Fairly accurately, Mr. Chairman. This report is a report of old employees working, 1,230; that is more of an attendance report.

The CHAIRMAN. More of a what?

Mr. CONGER. An attendance report rather than enrollment. In other words, there would have been more than 1,230 who had returned to work and maybe quit or went on pension or died.

The CHAIRMAN. What is the date of that?

Mr. CONGER. This is January 15, 1958.

The CHAIRMAN. January 15, 1958?

Mr. CONGER. Yes.

The CHAIRMAN. About 2 months ago?

Mr. CONGER. Yes.

The CHAIRMAN. And that shows the number of the employees that were back at work as of that date?

Mr. CONGER. Yes.

The CHAIRMAN. But it does not account for those who may have come back to work, who may have since died, or who may have since left your employment?

Mr. CONGER. That is correct.

Senator MUNDT. Do you have in your records any place, Mr. Conger, a list of the total numbers of employees who came back to work?

You have given us the number as of the 15th day of January of this year. As you say, some of them may have come back to work and then retired or died.

Have you kept a record in the company of those who have come back, so that you can give us the aggregate total?

Mr. CONGER. I can do that. I thought I had it with me down here, in this book that I made some notes on. I don't think I have it here with me, but it will be possible to produce such a list.

The CHAIRMAN. If you can obtain it, you may submit it, and it will go along with that, which I am making exhibit 105. It may be attached as a part of exhibit 105. If you secure it, submit it for attachment to this exhibit.

(The document referred to was marked "Exhibit No. 105" for reference, and may be found in the files of the select committee.)

Senator MUNDT. While we are on that subject, Mr. Chairman, I would like to get from Mr. Conger his analysis of the meetings which were held which called the strike. I asked a lot of questions of union officials who seemed to have firsthand information. If I remember their testimony correctly it was to the effect that at the time the strike vote was taken, about a third of the employees of the Kohler plant were then in attendance and voted, and that of those that voted, the vast majority voted to strike, but that substantially about a third of the Kohler employees were all that participated in the voting, either aye or no. I would like to get from Mr. Conger under oath his best information on the report of, No. 1, what kind of meeting was this? Was it advertised as a meeting to determine whether you were going to strike or not strike?

Do you know anything about that, firsthand?

And, if it was, how many were there when the voting was taken, and about what majority was the vote to strike?

Mr. CONGER. In the first place, it was advertised as a meeting not definitely to strike. It was advertised as a meeting "Please give us a strike vote which will strengthen our hand in our bargaining with the company."

This does not necessarily mean that there is going to be a strike. You are just authorizing your officers to call a strike, so that the bargaining committee's hands will be strengthened by having that weapon.

Senator MUNDT. Do I understand from that that the proposition on which the members voted was not specifically to strike, as of some given date, but was, instead, to authorize the bargaining committee to strike unless they got certain concessions from the company?

Mr. CONGER. That is right.

Senator MUNDT. The latter of those two.

Mr. CONGER. The latter of the two.

Senator MUNDT. The latter of the two?

Mr. CONGER. Yes, Senator.

Senator CURTIS. Will you yield briefly?

Have you any documentary evidence on that?

Mr. CONGER. I believe we can produce some. I know it was on their broadcast. I know it was in their papers. I believe we can produce documentary evidence of that.

Senator CURTIS. But you are referring to somewhat you believe to be inducement for them to vote that way, and not about the exact ballot that they marked in the union hall?

Mr. CONGER. I have no knowledge, Senator, of what was on the exact ballot that they marked. It was a common understanding, I believe, from the radio broadcasts and the Kohlarian, at least it was my understanding, that this vote was taken was simply as a vote to authorize the officials to call a strike if in their opinion they deemed it necessary.

There was no date set for the thing or anything else. In other words, they weren't definitely going down there and saying "On April 5 we are going out on strike, or we are going out on strike if we don't have certain demands met."

Senator MUNDT. How about the number? Have you any information on that?

Mr. CONGER. I have no information as to the number that attended that meeting, but I was at the time, and still am, very highly suspicious of the union's estimate of the number at the meeting. If there had been—

Senator MUNDT. By your own estimate there was only a third of the members voted. Do you think that is a fair estimate? Do you think it is a low estimate or a high estimate?

Mr. CONGER. I presume there, their estimate or their knowledge of how many voted is correct, it ought to be. What I am questioning is the number that were there at the meeting, their estimate of that. It seems to me that if Kohler Co. was such a terrible company, that these men had been so browbeaten and misused as we have been told here, it is inconceivable to me that they would go down to a strike meeting, firmly resolved to get even with the company and to vote for a strike and then to walk out without voting.

Senator MUNDT. I don't think it makes one iota of difference how many attended the meeting. It makes a lot of difference how many voted. I don't think it is pertinent at all whether there were 10,000, 20,000 or 30,000 who attended the meeting, but it does make a difference as to how many were serious enough about this business to vote.

one way or another. A lot of us have talked at political meetings, and many people have walked out during the meeting. You can't tell whether they are for you or against you. You are kind of interested in the people who stick around to hear the story. They are the ones that go to the polling places and vote. You do the best you can with those that are there.

I presume a strike vote is no different. One of the union members said that they assumed that those who had gone home would all have voted to strike. He is entitled to that guess.

It is just as logical to guess that all of those who went home felt "I don't want any part of this dirty business. I don't want to get involved."

You can't tell. But it seems pretty clear that as far as the third that voted, I think 90 percent of them voted to strike.

Mr. CONGER. I think that is right of the ones that did vote. The committee, of course, has as much information on that as I have, and more until I sat here in the hearing room.

Senator MUNDT. I wanted to find out if you had any other information that you wanted to throw into that picture, or whether that would stand pretty well accepted by all sides, that of those who voted, it was 90 percent of them, and it was a third who voted.

Mr. KENNEDY. On exhibit 105, there is a statement up at the top "Returned to work April 5, 1954 through January 15, 1958", and then it gives a figure of 1,380.

Would that be the figure that you were looking for, that figure of people who returned to work? That is not the old employees working. That is 1,230. But the employees returned to work is 1,380.

Mr. CONGER. Could I see that now? It would be quicker than finding it.

Mr. KENNEDY. Yes.

Mr. CONGER. I was quite sure that figure was on there. I was unable to find it.

(Document handed to the witness.)

Mr. CONGER. Yes, the top figure of 1,380, that is correct. That would be the number who had returned to work prior to that time.

Mr. KENNEDY. That is the old employees who were employed prior to the strike, who returned to work after the strike, is that it?

Mr. CONGER. Yes, that is correct.

Mr. KENNEDY. That is 1,380 out of approximately 3,300?

Mr. CONGER. About 3,318, I think.

Mr. KENNEDY. Wouldn't that indicate the fact that you had far less than 50 percent who actually returned to work when the mass picketing ended, and even up until 1958, that this strike was supported by the people working at the plant?

Mr. CONGER. No. It would indicate that this campaign of terror that they ran through the whole community there had a very appreciable effect. It indicated to us that there were many, many people who wanted to come to work but who just didn't dare to. They didn't dare take the risk of having their homes paint bombed, and their cars dynamited, their children harassed in school, and being physically assaulted. We know positively there were a great many people who wanted to return to work, but just didn't dare to do so.

MR. KENNEDY. Mr. Conger, there hasn't been a great deal of violence and vandalism since 1956. Certainly the people could return after 1956 and feel that they were reasonably safe.

MR. CONGER. Some of those people have moved out of the town. They have jobs other places. They just didn't dare come back, and some of them after being out that long didn't want to come back. We were willing, Mr. Kennedy, at any time, and we asked at that time "Open up that picket line", and I think one of our executives expressed it "Let them vote with their feet. Let anybody who wants to come back to work, come back to work and do so".

But you can't have a mass picket line, mass picketing for 54 days, and you can't have these things going on in the community without that hangover of fear having its effect, and it doesn't stop when the last paint bomb is thrown.

MR. KENNEDY. I don't know whether you talked about this yourself, but was there a great deal of violence on the picket line, other than keeping the employees who wanted to work out of their jobs, keeping them away from the plant, and keeping them out improperly, which we have seen pictures of and we have had great testimony about?

Beyond that, was there a great deal of violence on the picket line?

MR. CONGER. Yes, there was. There was violence on the picket line any time anyone tried to get in.

MR. KENNEDY. Beyond the fact that people were pushed and shoved back, which I am certainly not condoning, was there violence on the picket line?

For instance, were there any windows broken in the Kohler Co.?

MR. CONGER. There were no windows broken at the Kohler Co. I wouldn't say that was violence on the picket line. But there were people elbowed, slugged, kicked, kneed. I have seen some people who came off of that picket line after they tried to get through, and their shins were bloodied and bruised from the kicking they received.

MR. KENNEDY. Did you have somebody reporting each day as to what was going on in the picket line?

MR. CONGER. We had several people reporting each day as to what was going on in the picket line; yes, sir. We wanted to get it stopped.

MR. KENNEDY. We had some discussion from one of the detectives that he was on the picket line. But beyond that did you have some individuals who were making reports each day on observations as to how the picket line was behaving?

MR. CONGER. We had several people reporting that. Mr. Ireland, for one. These people that we had in the observation tours were reporting any incidents on the picket line that might be considered illegal. I was, if you want to put it that way, reporting it myself. I was getting up every morning and going to see that picket line before 6 o'clock to see what was going to happen.

MR. KENNEDY. We have a report here, general observations. It is a report on the picket line; I believe it is from Mr. Ireland.

Just generally going through it, most of the remarks in this general report are that there was a great deal of singing and yelling about Mr. Conger and Mr. Biever.

But as far as actual reports on violence or vandalism, there is very little, in your own report.

MR. CONGER. That is not my own report.

Mr. KENNEDY. Mr. Ireland's report.

Mr. CONGER. Mr. Ireland's report.

Mr. KENNEDY. When I said yours, I meant the Kohler Co.

Mr. CONGER. And which I never saw until Mr. Bellino took it out of Ireland's file. I will say the reason there isn't more on that is the reports that he would make of something that would be more drastic, you might say, would be in the books that you have up there.

Mr. KENNEDY. For instance, on the report on May 18, 1954, "5 o'clock to 5:30, the American flag which the pickets usually had hoisted on a stick at the office parking lot entrance was carried up the street to the main gate." Then you have a report on who was present.

Mr. CONGER. Yes.

Mr. KENNEDY. Very little, actually, as far as vandalism.

Mr. CONGER. I don't see anything sinister in keeping those reports.

Mr. KENNEDY. I don't see anything wrong with it. I just say that the reports that your people were making show very little as far as actual violence and vandalism.

Mr. CONGER. I am afraid you haven't looked at the four books.

(At this point, Senator Ervin entered the hearing room.)

(At this point, the following members were present: Senators McClellan, McNamara, Ervin, Mundt, and Curtis.)

Senator McNAMARA. Mr. Chairman, before we get too far away from this employment of private detectives, did I understand the witness to say that he assigned these private detectives to some sort of surveillance on the union hall?

Mr. CONGER. No; not on the union hall per se. We assigned them to try to find out who was committing this vandalism and the other acts of violence, and we were very sure then, and we are very sure now, that the union people, and particularly the union people that came in from outside, were at the bottom of it.

Senator McNAMARA. I understood from your testimony here today, just within the last 30 minutes, that you did say that these private detectives were conducting some sort of surveillance on the union hall.

You say now that I have got the wrong impression from your testimony?

Mr. CONGER. In the course of that, I have no doubt that they did watch the comings and goings at the union hall, particularly after dark, and I know they collected some license numbers of some cars around some of the union hangouts, and tried to get whether those same license numbers were going to appear some place in connection with vandalism.

Senator McNAMARA. Don't you think that this is at least verging on the employment of labor spies and is that not an illegal act under the Taft-Hartley Act?

Mr. CONGER. No; I believe it isn't even close to it, Senator. I believe that we have a right to hire private detectives to catch a criminal at any time, whether he be a union member or a nonunion member.

Senator McNAMARA. Then does this imply that all of these people around the union hall were criminals, and therefore it was legal?

Mr. CONGER. No; it implies that they were logical suspects. If we had found someone who was guilty of this vandalism who was not a union man, we would have been just as anxious and just as glad to prosecute him as we would have been if he happened to belong to a union.

What we were interested in was getting this reign of terror stopped, and we weren't getting any cooperation from some of the law-enforcement officers in that community that should have been giving it to us.

Senator McNAMARA. This morning, Mr. Conger, you made a pretty good point by putting documents into the record that you had been bargaining in good faith, and I thought you did a real good job with the correspondence and the copies of offers that you had made to indicate your desire for collective bargaining and bargaining in good faith. But I think that this employment of private detectives to check up on individuals, and to conduct surveillance of the union headquarters to get car numbers and things that you talked about, hardly squares with your position of bargaining in good faith.

These are more Gestapo methods than are generally accepted as the American way, and I question if that was an indication that you were bargaining in good faith.

What is your answer to that?

Mr. CONGER. My answer to this is that I do not think criminal acts are a part of the bargaining procedure at all.

We have taken the position that we wouldn't yield to criminal acts. Criminal acts and this act of terrorism and violence were not legitimate bargaining weapons. I don't think that that had anything to do with the bargaining at all.

What we were interested in was getting these criminal acts stopped. Some of them were felonies, and all of them were very serious acts carrying a reign of terror all through the whole community. We were sincerely interested in getting that stopped, and I don't think that the answer is that we should have come in and given the union what they demanded and reward that sort of thing.

To me that is an entirely separate thing from the bargaining. It is not legitimate bargaining, and it is not connected with it.

Senator McNAMARA. Did this employment of the private detectives and their surveillance of the union headquarters bring about the discovery of any criminals?

Mr. CONGER. No, I think they came very close a couple of times.

Senator McNAMARA. Close enough?

Mr. CONGER. They never did actually succeed in getting anyone, or at least anyone that we could prosecute.

Senator McNAMARA. What is your justification for continuing to say that you hired these people to check up on criminals, even though the result of their surveillance was that they didn't find any criminals?

Mr. CONGER. Senator, there were certainly criminal acts being committed, and dynamiting of automobiles, and shotgun blasts through windows. Certainly there was some criminal committing those acts. We didn't happen to catch them, and we weren't fortunate enough to catch them, but there were criminals, and serious criminals involved in this thing.

Senator McNAMARA. Was anybody convicted of these acts of violence?

Mr. CONGER. Yes, some of them are. Four were convicted up in the Chilton court and they made a jurisdictional error by getting into another county and the sheriff arrested them.

They were given jail sentences, for them, and then they were transferred down to the county jail, and the union gave them a job and

paid them salaries while they were supposed to be serving their jail sentence.

Senator McNAMARA. What were they convicted of, sir?

Mr. CONGER. They were convicted of assault. I think the original charge, if I am not mistaken, was assault with intent to do great bodily harm, but they were convicted of assault.

In fact, they were convicted twice, and they were convicted in a justice court of an assault and battery on the man's wife, and they were convicted in the circuit court for the more serious assault on the husband. And there was also some vandalism, and they smashed some of his property there, too.

Senator McNAMARA. They were turned up by your private detectives?

Mr. CONGER. No; they were not. They got caught by a sheriff who was on the job.

Senator McNAMARA. Did the private detectives find any criminals at all?

Mr. CONGER. No; they did not.

Senator McNAMARA. They didn't do a very good job?

Mr. CONGER. I think that they did a good job, but in any police investigation I think Mr. Heinke testified here the other day that 99 percent of police work is getting information from individuals, and I think that they got about all of the physical clues they could, and then it got to the point where somebody had to call these people in and question them, and they didn't always get some of the cooperation in my opinion that they could have or that some of the law enforcement officers could have given. Not all of them.

The CHAIRMAN. All right.

Senator MUNDT. Before we get too far away from the arithmetic on this strike, I would like to review the figures for whatever significance they may have.

You start out with a body of laboring men of roughly 3,300, of whom 1,100 voted to strike, and 100 voted not to strike, and the rest do not vote at all.

Now, I think that you testified that 1,380 men have gone back to work since the strike began.

Mr. CONGER. Yes.

Senator MUNDT. Which would indicate that 280 more workers went back to the plant than originally voted to strike, if I understand those figures correctly.

Mr. CONGER. I think that that is right.

Senator MUNDT. What you call voting with your feet, walking into the plant, there were 280 more of those than voted with the ballot to walk out?

Mr. CONGER. That is right.

Senator MUNDT. But I think more significant than that would be, if we can establish it, how many of the 3,300 or how many of the 1,100 are still on strike and are still unwilling to work, even though they may be in the Sheboygan vicinity, or close enough so that they could go to work if they sought to go to work provided the company would employ them.

Have you any idea about how many of the 1,100 are still what should be called on strike?

Mr. CONGER. I have no idea, Senator, and I don't believe anyone has.

If this strike were settled tomorrow, and announcement was made that everybody could go back to work, I don't know whether it would be 200 or 1,000, or more. There is just no way of determining that that I know of.

Senator MUNDT. May I inquire of counsel whether our staff has investigated the books of the union to the point of finding out how many people in Sheboygan are still drawing strike benefits, and that would give us a pretty good answer to that question.

Mr. KENNEDY. I believe Mr. Worrath has that. He is not here at the moment.

The CHAIRMAN. He has been here every day, but I don't see him now.

Senator MUNDT. I suggest, and I don't want to call a staff member off an assignment—

Mr. KENNEDY. Oh, no, he is working on this.

Senator MUNDT. I suggest that we have him if he has this information, and swear him in, and I think that would be a rather significant figure to include in this arithmetical analysis of what is taking place in Sheboygan.

The CHAIRMAN. That can be done.

Mr. CONGER. I have seen statements by the union that they had 300 or 400 on their relief rolls, but I have no way of verifying them, and I am sure your counsel would have more accurate information.

Senator MUNDT. We will get it in the form of sworn testimony and I think that we should wait until we see what that is, and I am getting educated on what testimony is and what evidence is.

Mr. KENNEDY. On this point, there is this newspaper clipping that was brought in, I believe, by Mr. Mazey, in the Sheboygan Press, which said, "Kohler Strike Continuation Voted 1,571 to 21." That is dated November 18, 1954.

Do you know anything about that meeting?

Mr. CONGER. I don't know anything about that meeting, and I don't know whether that vote was taken by ballot or by show of hands, or how it was taken.

I may say at that time probably some people went down to the meeting and voted to continue in order to get strike relief they were getting from the union. That was a factor.

Mr. KENNEDY. What about this: Was there an attempt to form another union after the strike occurred, to form a new independent union within the plant?

Mr. CONGER. No, I wouldn't say that there was an attempt to form a union. I think some of the boys in the shop talked about it.

Mr. KENNEDY. What was it going to be called?

Mr. CONGER. I haven't any idea what it was going to be called, and I didn't have anything to do with it, and I was going to say that some of them came out and started wearing buttons and I don't know where they got them from, and I think it said, "Independent Union" or something like that, and that was just preceding the time when this union filed the NLRB charges, which, as I said, were not filed until long after the alleged acts that were supposed to have been committed that were unfair labor practices.

Mr. KENNEDY. You had nothing to do with the formation of that?

Mr. CONGER. No.

Mr. KENNEDY. Did they ever discuss that?

Mr. CONGER. Somebody sent me over one of the buttons in an envelope and he didn't put his name on it or who it was, and I still have it in my desk, I think.

Mr. KENNEDY. Nobody discussed the matter with you?

Mr. CONGER. Nobody discussed the matter with me.

Mr. KENNEDY. Did they discuss it with any officials of the company?

Mr. CONGER. Not to my knowledge.

Mr. KENNEDY. Did they have an attorney, the new union?

Mr. CONGER. I don't think that there was enough of a new union to have an attorney, and I never heard of it.

There was a group at the time the strike started that wanted to go to work, a group of about 25, I believe, and they filed an action for injunction in this Sheboygan County Circuit Court. I assume probably that some of those may have been the people who were at least thinking of forming a new union. However, that injunction action never came to trial. We intervened in it as a party plaintiff, so we could help kind of keep control of it.

Mr. KENNEDY. Who was the attorney of that?

Mr. CONGER. Mr. Humke was the attorney for those people.

Mr. KENNEDY. For the nonstrikers?

Mr. CONGER. Yes, sir.

Mr. KENNEDY. He was an attorney for them?

Mr. CONGER. Yes, sir.

Mr. KENNEDY. Did he represent other nonstrikers?

Mr. CONGER. I don't know what you mean by "others."

Mr. KENNEDY. When any of them were arrested for violence, or improper activities, did he represent them?

Mr. CONGER. Oh, yes, there were quite a number that he did represent on that occasion.

Mr. KENNEDY. Did the company pay him any money?

Mr. CONGER. We paid him for that service on some of them, yes, where we checked every case, and where we felt that this was pure harassment by law officials, we protected them.

For example, one case that I know he defended, and we paid his fees, which was included in this bill, was a case of Reno Federwisch, who was kneed in the groin on the picket line by Jesse Ferrazza, and after he was kneed he hit him in the face, and he was the one who was arrested.

We told him to go down and see Mr. Humke and Mr. Humke defended him, and he was found not guilty, and we paid Mr. Humke's fees for that and for several of these other cases.

We also paid Mr. Humke's fees for defending the man who drove through. After the WERB came out with its cease-and-desist order, they said that there should always be a 20-foot space in the picket line, in which there were no pickets, and no trespass at any time, and immediately the pickets, proceeded to block off all alleyways and all entrances to the plant, with rocks, and stones, and concrete cans, and left only a 20-foot opening, and it was at such an angle that a man had to practically stop his car to drive through. He was getting harassed and shouted at, and spit tobacco juice at, and one day he drove through across these rocks, and the sheriff's deputies arrested him for violating a traffic ordinance. We defended him.

Mr. KENNEDY. Did you defend any of those who were found guilty?

Mr. CONGER. I believe there was one man in the group that was found guilty of not having a proper automobile license, and was fined \$10, and I think we paid his attorneys fees but we didn't buy him the license.

Mr. KENNEDY. Did he also represent Mr. Bieber in some action?

Mr. CONGER. Yes, sir.

Mr. KENNEDY. What was Mr. Bieber charged with?

Mr. CONGER. There were two actions against Mr. Bieber. One was for failure to yield the right-of-way to a pedestrian, and a pedestrian in this case being a mass picketer blocking the highway. And the other case was an assault and battery case, when Mr. Bieber walked on the picket line, and the picket bumped him and he was arrested for assault and battery. That case was dismissed.

Mr. KENNEDY. How much altogether did you pay Mr. Humke for representing these individuals?

Mr. CONGER. I believe it was in the neighborhood of \$3,000, and I have the exact bill here somewhere.

Mr. KENNEDY. And Mr. Humke represented the actions of some of these nonstrikers against the union, also, did he not?

Mr. CONGER. I don't understand the actions of nonstrikers against the union.

Mr. KENNEDY. Yes.

Mr. CONGER. You mean the injunction action?

Mr. KENNEDY. Well, any legal actions, and were there not various kinds of legal actions by the nonstrikers against the union?

Mr. CONGER. The only legal action by the nonstrikers against the union that I know of, or I can think of, was that injunction suit which was never brought to trial.

Mr. KENNEDY. Did he represent them at that time?

Mr. CONGER. He represented 25 Kohler employees, and I do not know offhand without seeing his bill, whether any of that 25 were the same ones who filed the injunction action, and in fact I know most of them were not. I have the bill now here, and I found it, and it is exactly \$3,000.

Mr. KENNEDY. Did that cover any work that he did in this injunction proceeding?

Mr. CONGER. No, it did not.

Mr. KENNEDY. That was just these individual actions, and did that include the action against Mr. Bieber?

Mr. CONGER. That included the two actions against Mr. Bieber; yes, sir.

Mr. KENNEDY. And it included some of these actions against these nonstrikers who were charged with various offenses?

Mr. CONGER. Yes. It included an action against Adam Gulan who was harassed by a bunch of strikers, and he chased them off his property with a shotgun. He was arrested for defending his property.

That case was dismissed. It included a case against Mr. Gilbert Loersch, who was subject to very vile and intemperate language and abuse going through the picket line, and one day he replied in kind, and strangely enough the deputy sheriffs could not hear the language directed against him, but they could hear his reply, and they arrested him. We defended him.

We defended one man who, I was advised, was arrested by the deputy sheriff for driving in a reckless manner, and I was advised that all that happened there was the pickets yelled, "Arrest that guy, he just drove through here." And he arrested him and he found out he arrested the wrong individual and they did not even know who he was.

There was another man who was arrested who was followed approximately a mile and a half and harrassed by three strikers, and forced into the curb with his automobile, and when they came up to the car he drew a knife, and he drove them off. He was arrested for carrying a concealed weapon and that case was dismissed.

In those cases we paid Mr. Humke's fees. We thought this was a part of the harassment to keep these people from working and it would not have happened to them had they not been working, and we felt that that was in the same category as reimbursing them for damage to their property.

Senator MUNDT. So we can get the whole picture at one place in the record, I wonder whether we can get in the record at this place the total amount of legal fees that the union paid to its lawyers in connection with the same type of cases.

I recall that we had testimony that the lawyers of the union, representing Mr. Vinson for example, and Mr. Gunaca, and several other witnesses, and I think it would be pertinent to get the whole picture that we have the total amount of the fees from the union.

I wonder whether our investigation has been complete enough so that we could put that in at this point.

Mr. KENNEDY. We can put it in now or we can put it in after Mr. Conger leaves the witness stand. We will have to get it from Mr. Bellino. We have it.

Senator MUNDT. I think we should get it this afternoon, so it would appear in the same place.

The CHAIRMAN. Are we going to question the union officials with respect to it, or have we taken this from the union records?

Mr. KENNEDY. We have taken it in the course of our investigation, and Mr. Bellino went through the books and records of the local 212 from which Mr. Gunaca and Mr. Vinson came. He ascertained at that time the payments that had been made to Mr. Gunaca and Mr. Vinson, and also the legal fees that had been charged to local 212 on their behalf. We have those records.

The CHAIRMAN. That would not include what the union may have paid from local 833, or from the international?

Mr. KENNEDY. I suppose that Mr. Worrath has that.

Mr. McGOVERN. I don't have that. As I understood, Mr. Mazey testified here on that.

Mr. KENNEDY. We have the Gunaca and the Vinson charges from the international and the local in Detroit.

Senator MUNDT. Some of the witnesses testified that they presumed, and I guess they did not say they knew, but they presumed that their legal fees and their fines were paid by the international. Some testified that they thought they were paid by this Detroit union to which they belonged, and some may have been paid by local 833. But I think that we should have this evidence at this point, so that we can get the whole picture at one place in the record.

The CHAIRMAN. The Chair is apprised—

Senator MUNDT. I think Mr. Bellino has that.

The CHAIRMAN. The Chair is advised that Mr. Bellino has checked the records of local 212, of 833, and of the international.

Mr. KENNEDY. We checked local 212 and the international, and I understood it was Mr. Worrath who was going to check local 833. We checked what had not been done.

The CHAIRMAN. Has he reported that 833 had paid out some fees?

Mr. McGOVERN. I don't believe so.

The CHAIRMAN. Let us move along, and Mr. Bellino, you get your records, what you have of it, and I don't believe it will be complete unless we have all of it.

Mr. KENNEDY. We will have it as far as Mr. Gunaca and Mr. Vinson are concerned.

The CHAIRMAN. Proceed with the interrogation of this witness, and Mr. Bellino as early as you can, get these records from your office.

Mr. KENNEDY. Now, Judge Murphy appeared before the committee, Mr. Conger, and he made a statement that you stated that the 1934 strike had brought 20 years of labor peace, and that you hoped that this strike would bring the same thing.

Mr. CONGER. I did not quite recollect the judge's testimony quite to that effect. The statement that I made to Judge Murphy was this: He made a remark which I correctly or incorrectly, I don't know which, assumed to mean that there must be something wrong with our labor relations policy because we had had a strike, and I asked him if he could point to many companies in the country that had 20 years of labor peace without a strike, and 20 years without a strike.

That is the reference I made to the 20 years of labor peace.

Mr. KENNEDY. He also said that you were going to make a statement that you were going to teach the union a lesson.

Mr. CONGER. I made a statement to them that they had to learn the lesson that we were not going to reward violence and illegal conduct, and that we were not going to yield to that sort of pressure.

Mr. KENNEDY. And he stated that as far as he learned from his contact with you and the Kohler Co., although you showed up physically at bargaining meetings, there was no wish really to bargain with the union.

Mr. CONGER. That sword cuts both ways, Mr. Kennedy. The record will show very clearly that Judge Murphy came in and made a proposal of settlement which was not acceptable either to the company or to the union, as Mr. Mazey's testimony to that effect shows, and there are many documents to the effect later than that, that the union was still insisting on the same things that they had given Judge Murphy an impression that they were willing to drop.

But they are still back in the picture and they were, and they were as late as the time that Mr. Burkhart testified in June of 1955, before the NLRB, that these are the seven issues still on the table. There are seven of them, and not just wages.

Mr. KENNEDY. Would you be willing to furnish the committee with a memorandum, and I have spoken to you about this before, as to what you feel are the issues between the union and the Kohler Co. at the present time?

Mr. CONGER. I have stated to you before—

Mr. KENNEDY. Between the Kohler Co. and the union.

Mr. CONGER. I have stated to you before that I don't know how I can do that. I don't know what the present demand is, and I have submitted the last written demand that the union made of us.

They have never advised me officially that they have changed that position, and we did get a telegram from Mr. Reuther asking to bargain on the basis of the examiner's decision, and as I have already explained, I don't know what that means.

Mr. KENNEDY. Could you tell us what the company's position is on these various issues, if you can't tell us what the union's position is?

Mr. CONGER. I can't tell you what the company's position is. I can't state our bargaining positions on hypothetical basis.

The company's position would always depend on what the union's position was.

Mr. KENNEDY. How about giving us a memorandum of what you believe the union's position is, and what the company's position is on the same manner. We have been discussing this strike now for some 3 weeks, and I think it would be helpful to the committee if they knew what the issues were.

Mr. CONGER. I believe that if we went back into bargaining tomorrow, that we would be faced with the same thing that we have been faced with many times before, that the union would have made public statements that they are willing to drop a great deal of or a good many of their demands and then would come in and insist on the same bunch all over again.

Mr. KENNEDY. Who seemed to be making all of the decisions, the local man on advice of the UAW man from Detroit, or the outside representative?

Mr. CONGER. No; I would say that Burkhart did most of the talking for the union, except when Mr. Kitzman or Mr. Mazey was there, and then usually they would do most of the talking.

Senator MUNDT. Mr. Kitzman was a local man; was he not?

Mr. CONGER. No. Mr. Kitzman was an international man, the regional director of the UAW-CIO, and a member of their national executive board.

Senator MUNDT. Well, that is very interesting evidence in connection with one of the points we are trying to resolve, whether this strike was run in the main by the local people or the outside people. It is entirely possible the union when they come to testify will have a different version of that, but I did think we should find out at this time what your observations were.

Mr. CONGER. Might I suggest an interesting answer to that, Senator? That I think the boys that paid the bill ran the show, and I think it has already been testified here, Mr. Mazey has said many times, that the international spent about \$10 million on this strike and I don't think they spent that \$10 million for a purely autonomous strike over which they had no control.

Senator MUNDT. I have been somewhat interested, Mr. Conger, in the melodramatic aspects of this business, the stories of spies and counterspies, and detective agents, and informants. I have interrogated a number of witnesses on the union, Mr. Rand, Mr. Mazey, I believe, and others, about their reports in the Kohlarian, and in the strike bulletins, and in the Vicker interview with Mr. Rand in the Wall Street Journal, all of which indicated that they were main-

taining spies in your plant, as you have told the committee you were hiring detective agencies to try to find out what was going on from the standpoint of some of the activities of members of the union.

Did you have any feeling or any knowledge that there were these spies in your plant or informants in your plant who were carrying out information about the boycott or about working conditions, or about what the officials of the plant were doing during the course of this strike?

Or do you agree with the second version that we have gotten about these spies, which was just a device for fooling the workers, that they really didn't have them but they would tell the workers that they had them because it would make kind of interesting reading?

MR. CONGER. No, there were definitely such informants, and some of the information passed out was accurate. For example, at one time, and I don't think that has come before the committee, they passed out the information on how many copies of a booklet we were going to put out on this strike, before they had ever been received from the printer.

The information that they passed out on the number of copies of a certain booklet and the postage bill was surprisingly accurate. Some of their other information was not nearly so accurate, and I think probably was distorted for membership consumption.

There is no question in my mind that they had informants in the plant, or that they had people, for example, who were telling them what the supply of clay was, and how badly we needed the clay boat to come in, and whether they could affect our operation seriously by blocking that.

There is no question in my mind that they had actual informants. We were never able to identify who they were.

SENATOR MUNDT. So it is your best opinion that these articles that they were publishing in the strike bulletin and in the Kohlarian and in the Wall Street Journal, and republishing in the Kohlarian, were actually based on fact and were not just an effort to deceive the workers?

MR. CONGER. Yes. I would say that in my opinion the only difference between their activities in that respect and ours was that they had these agents reporting on legal activities, investigating legal activities of the company, while ours were confining their efforts to illegal activities of the union.

SENATOR MUNDT. It has been testified also, I believe by Mr. Rand, and I don't think he made it as a positive statement, but he developed the hypothesis, anyhow, and created the impression, that the Kohler Co. had sponsored some of these home demonstrations.

I want to ask you under oath: Did the Kohler Co. at any time, in any way, sponsor or encourage these home demonstrations?

MR. CONGER. No, Senator, we certainly did not. I will say the same thing for the vandalism. We were not interested in scaring people from coming to work. We were interested in having them come to work. We weren't interested in doing things to scare our workers from coming back to work.

That would have been exactly the opposite thing of what we hoped to accomplish.

Senator MUNDT. I have a few questions about the clay boat incident. Were you there personally?

Mr. CONGER. I was not there personally, Senator.

Senator MUNDT. You have no personal information, then, about how large the picket line was or how tightly packed it was?

Mr. CONGER. No personal information on that that I can testify to direct.

Senator MUNDT. I don't want any secondhand information, so I wouldn't ask you any questions about that place.

Did you hear or have you any transcripts or have you any evidence as to whether or not the union broadcasts tended to create the big crowd down there and to bring a lot of strikers out for the purpose of preventing the unloading of the clay boat, or were the union broadcasts limited to the fact that "this is a Fourth of July holiday season, and there is going to be a clay boat coming down there, and it might be an interesting sight to come down and watch"?

Mr. CONGER. I think that broadcast—and you will not get the full implication of the broadcast from the printed record of it, you had to hear it—when I heard that broadcast, I immediately assumed that the purpose of the broadcast was to start an interference with the unloading of clay, and I immediately called Mr. Desmond and asked him to write the mayor and the chief of police and the sheriff and give the statutory notice. You see, under our law, Senator, a county or municipality is responsible for riot damage, if they do not quell or keep the riot under control.

There are 2 defenses and 2 exceptions to that. One is if the person who is suing for the riot damage really caused it and was to blame himself. The other is if they do not promptly notify the law-enforcement officials as soon as they know that there is a threat of that action.

I considered the moment I heard that broadcast that it was a threat of exactly what did happen, and that is why I instructed Mr. Desmond to write those law enforcement officials.

Senator MUNDT. I have in my hand what purports to be a copy of the broadcast of July 11, 1955. I want to read it to you and ask you whether you have any transcript or any evidence which can demonstrate whether or not this is, in fact, a true and accurate report of Mr. Treuer's broadcast on the CIO program of July 11, 1955:

Kitzman announced that Kohler Local 833 will put up a picketline at any and every dock, pier, and port where boats loaded with hot clay for the Kohler pigeons make an attempt to unload their unwanted cargo.

Mr. CONGER. Yes, sir; I think that is an accurate report. I remember it, and I remember that Mr. Kitman did make that statement and that threat—that the boat would be picketed wherever it appeared.

Senator MUNDT. Have you any better evidence than your recollection to bear out that this was an accurate report of the broadcast?

Mr. CONGER. Yes, we have transcripts of all their broadcasts. First we took a tape recording of them, and then we have had them transcribed. I am sure we have both the tape recording and the transcription of that July 11 broadcast.

(At this point Senator McClellan left the hearing room.)

Senator MUNDT. Mr. Chairman, I think it would be better evidence if we could have the witness go through these transcriptions and supply us, under oath, an accurate report, rather than their recollection.

Mr. ERVIN. That is a pretty good legal position. As lawyers say, that would be the best evidence.

Senator MUNDT. Thank you. So much for that broadcast. I want to read another statement in the same transcript:

This is Bob Treuer with today's Kohler report, and some very good news. The *Fossum* carrying clay for the Kohler Co. has been chased out of Wisconsin waters by the pressure of public opinion and the solidarity of labor.

Mr. CONGER. Yes, I recall that statement.

Senator MUNDT. Can you find a transcript of that and insert it into the record?

Mr. CONGER. I am sure we can.

(The material to be supplied follows:)

The following is the 6:30 p. m. CIO broadcast from station WIIBL July 11, 1955:

"This is Bob Treuer with today's Kohler strike report and some very good news. The *Fossum*, carrying clay for the Kohler Co., has been chased out of Wisconsin waters by the pressure of public opinion and the solidarity of labor. The boat left Milwaukee just as it had come, loaded, and was last seen this afternoon sailing down the Detroit River near Solidarity House—the UAW-CIO's headquarters. At last report, the *Fossum* was headed for Montreal, Canada.

"Meanwhile, another vessel, the *M. S. Divina*, also loaded with hot clay for Kohler, is reported to be heading for the port of Milwaukee. In this connection, we would like to call attention to a statement issued today by Harvey Kitzman, director the UAW-CIO's region 10. Kitzman announced that Kohler Local 833 will put up a picket line at any and every dock, pier, and port where boats loaded with hot clay for the Kohler pigeons make an attempt to unload their unwanted cargo. An aroused public fed up with the shenanigans of the Kohler Co. and their so-called spokesman and the company's repeated refusal to bargain with its workers, has chased one hot cargo boat out of the State. We don't think the second boat will fare any better. More about this later on the program.

"Here now are Carl Kotnik, Leo Breirather, and Jerry Dale to discuss another development in the Kohler strike. Carl, take it away."

Carl Kotnik: "For the past 15 months, the Kohler Co.'s stubborn refusal to talk to its workers about working conditions, its capriciousness, its callousness, its lack of humanity, and its repeated attempts to prolong the strike, have caused hardship and suffering, not only among the large number of Kohler workers on strike, but also among the City and County of Sheboygan. Now, the company-caused dissension and strife have spread to Milwaukee and upset the citizens of that town and the company's attempts to unload its hot cargo of clay has brought headlines in every newspaper in the country. More and more the people of this great country of ours are learning about the backwardness, the stubbornness, and the downright cussedness of those who control the Kohler Co."

Leo Breirather: "That's right, Carl. While the papers are full of stories about unions and companies agreeing to new 1955 contracts—in steel, in auto, in the automotive parts industries, companies large or small and medium—signing contracts without strikes, without disputes, without bitterness, while all this is going on, the Kohler Co. and its bath tub barony still treads the same shopworn path—a path of hatred for its workers and contempt for the community. So it won't surprise anyone that leading citizens of other communities are beginning to take part in attempts to talk sense to the Kohler Co., if such a thing is possible. For example, Mayor Frank P. Zeidler of Milwaukee has called on President Eisenhower to start a Federal investigation of the Kohler strike—a factfinding inquiry designed to end the dispute. Now here is Jerry Dale with a summary of Zeidler's statement."

Jerry Dale: "Thank you, Leo. Mayor Zeidler's weekend statement blew like a fresh breeze over the ocean of crocodile tears which have been shed by the Kohler Co. during the past months. In 800 well-chosen words, the mayor of Milwaukee told the President of the United States that his intervention in the Kohler strike might help bring the dispute to an end, and he asked the President to give the Federal Mediation and Conciliation Service 'whatever additional help or prestige it needs to continue its efforts to effect a settlement.' Here in part is what the mayor wrote to the President:

"I respectfully call your attention to a labor dispute at Kohler, Wis. This dispute has been underway for 15 months and at present is in a stalemate. Great bitterness about this dispute has risen through all of the State. Members of both the CIO and AFL deeply resent actions of the company in the present strike, and it appears that the normal collective bargaining processes either are not functioning or cannot function in the present atmosphere.

"As a result, serious community problems have occurred in Sheboygan and now in Milwaukee. The latest problem was the attempt of a Norwegian ship to unload a cargo of clay destined for the Kohler Co. After the owners of the cargo decided not to unload in Sheboygan because of community resentment toward the company, the ship proceeded to Milwaukee. At Milwaukee Harbor, AFL dockworkers in the employ of the city, refused to handle the cargo. The owners and charterers of this cargo now have made a demand for the unloading of another cargo of clay bound for the Kohler plant and have again put the Milwaukee Harbor in the midst of a dispute between the Kohler management and its employees.

"If the city of Milwaukee must seek to force organized dock employees to handle this cargo against their will, and if they refuse, it will be compelled to discharge them. This will put the port in a nonoperating position for weeks or months, to the great detriment of all shippers and business and labor hereabout, and to the detriment of the interstate and foreign commerce of the United States.

"It is apparent that the only remedy for ending the dilemma of Milwaukee and Sheboygan is the settlement of the Kohler dispute. The length of time which this dispute has persisted indicates that only a special effort on the part of the Federal Government can terminate it. I, therefore, request you give the Federal Mediation and Conciliation Service whatever additional help or prestige it needs to continue its efforts to effect a settlement, and I further believe that a special Federal factfinding inquiry into this protracted dispute is necessary."

"What you have just heard were excerpts of a letter by Mayor Zeidler of Milwaukee to President Eisenhower. As might have been expected, the Kohler Co.'s reaction to Mayor Zeidler's letter was to insult the mayor. On the other hand, local 833 has welcomed the mayor's suggestion, as Local President Allan Graskamp made clear in a statement issued over the weekend. Now here again with more news is Bob Treuer."

Bob Treuer: "Big news and good news. The *Fossum* is on the run nearing Montreal. AFL dockworkers in Milwaukee say they will not touch the clay cargoes for Kohler Co., the *Fossum*, the *Devina*, or others, and the Milwaukee AFL Federated Trades Council, as well as the State CIO, again announced their official sanction of the Kohler strike. There is only one place where clay boats are likely to appear tonight and that is in the Sheboygan city hall where the common council meets as a committee of the whole, starting at 7:30 p. m. This meeting, as all such meetings, is open to the public.

"Here is what happened today in the story of the hot and unwanted cargo of clay. UAW-CIO Region 10 Director Harvey Kitzman said that all clay unloadings would be picketed by local 833. Here is his statement, and we quote:

"The position of the UAW-CIO and local 833 is that we are going to picket every single clay boat that comes into the city of Milwaukee or any place else, to point out to the general public that this is clay that is being shipped into a strike-bound plant. We feel the general public has a right to know this. If the Kohler Co. were desirous of settling this strike and would give up the idea of smashing this union, the same as they did in 1934, they could reasonably expect that the union might take a different look."

"Charles M. Schultz, State CIO president, also made a statement today and here in part is what he said: 'Wisconsin State CIO felt until learning of Lyman Conger's statement to the press, that there was some opportunity of a peaceful settlement of the Kohler strike. It was for that reason that it agreed to the unloading of the *Divina* and supported the plea of Mayor Zeidler to the White House. However,' Schultz went on to say, 'the statement of Conger without a shadow of a doubt indicated that Kohler does not intend to bargain in good faith. In view of these facts, Wisconsin CIO changes its position on unloading of the clay. Conger's statement and the point of view advanced by Joseph F. Finnegan, Director of the Federal Mediation and Conciliation Service, dispels any present ray of hope that it has for intervention in the dispute. Therefore, Wisconsin CIO reiterates its pledge of complete support of the membership of local 833 in their attempt to win a fair and equitable settlement of the strike.'

Jerry Dale: "Leo, how are we coming along on the boycott front?"

Leo Breirather: "Well, Jerry, there are so many irons in the fire that I don't really know where to start. Another boycott on wheels is scheduled for next Friday, July 15. This time it is heading north to Manitowoc and Two Rivers. A caravan of 25 cars is being lined up for this assignment and is scheduled to leave the strike kitchen at 5 o'clock next Friday afternoon. The caravan will be divided into two sections—one to take the lake road through Hika and then on to Manitowoc and the other takes Highway 141 through Cleveland on its way to Manitowoc. The first section will continue on to Two Rivers, while the second will concentrate its advertising on the Kohler boycott in Manitowoc. Incidentally, all the drivers of cars who carry the Kohler boycott car top signs should sign up immediately with Dispatcher Bob Winterberg at the strike kitchen if they want to join the caravan."

Bob Treuer: "Well, that's next Friday evening, Leo, July 15, at 5 at the strike kitchen. Incidentally, those who wish to sign up with Bob Winterberg can do so between 1 in the afternoon and 9 in the evening, tomorrow, that's Tuesday. All of the cars that are scheduled to go should make it a point to be there promptly as in the past and all drivers should be sure to carry a full load of passengers for the trip."

Carl Kotnik: "According to all the requests for more information being received after everyone of these boycott on wheels excursions, the caravans are turning out to be highly successful."

Bob Treuer: "That's right, Carl. As I understand it, the Sheboygan County Win the Strike Committee is coming up with another angle in support of the strike. Isn't that right, Leo?"

Leo Breirather: "It sure is, Bob. This is another case of a resolution in support of the Kohler strike becoming more than just lipservice. The Sheboygan County Win the Strike Committee, as you know, decided to expand and invite unions of all affiliations in the nearby communities to join in the win the strike efforts. This invitation has been accepted by the meeting of representatives of all of organized labor in the Port Washington, Fond du Lac, Oshkosh, New Holstein, Manitowoc, Kewaskum, and Campbellsport areas, has now been set up. This meeting is scheduled for next Monday, July 18, in the Fond du Lac Labor Temple at 7 o'clock in the evening."

Jerry Dale: "Although the Kohler strikers have received continuous support from organized labor in these areas, this marks the first time that a meeting of representatives from the entire area has been held to consolidate the efforts of them all. This meeting of all groups would have been held much sooner; however, the vacation schedules in many of the shops during the first two weeks of July would have offered too much interference."

Carl Kotnik: "Incidentally, this activity on the part of organized labor in the vicinity of Sheboygan County is merely a forefront of a statewide organization for the same purpose. Much work has already been done in that regard and the consolidation of those efforts is also not too far off. While this accomplishment is a tremendous task, the recent publicity given the Kohler strike through the clay boat situation, has given the entire program a shot in the arm as organized labor everywhere is rallying to the cause of the Kohler strikers. The willingness of everyone to lend a hand has certainly given us a lift in morale and incidentally, has kept us busier than Edmund J. Biever dodging a National Labor Relations Board subpoena. However, none of us mind the increased activity and work; in fact, we would like to find time to express our thanks for all the support and interest given to the Kohler strikers."

Bob Treuer: "Saturday, July 30, will also be a big day for the Kohler strikers. We have just received notice that the A. O. Smith workers from Milwaukee will bring a large caravan carrying canned goods and cash for the strikers. A caravan of 75 to 100 cars is expected to make the trip."

Leo Breirather: "Yes, Bob, the Smith steelworkers make up Federal Union 19806 of the AFL and this is but another indication of the real labor unity that is developing in the State of Wisconsin. In setting up the caravan, the plea went out as follows and I quote: "As you undoubtedly realize these loyal union people—meaning the Kohler strikers—are in desperate need of material financial and moral building assistance. The success or failure of the Kohler strikers will reflect on the progress of the entire labor movement and since the entire labor movement will benefit from the sacrifices these Kohler workers; we strongly urge and plead with our members to join in this caravan and to give either canned goods or money to this most worthwhile and needy cause."

Bob Treuer: "Thanks, Leo. You have just heard highlights of today's Kohler strike news. Milwaukee unions rally in renewed display of support for the

Kohler strikers. AFL dockworkers say they will not unload the next Kohler clay cargo. CIO and AFL central bodies also give their renewed official sanction to the Kohler strikers.

"Listen again tomorrow and every day to your daily Kohler strike report. This has been Jerry Dale, Leo Breirather, Carl Kotnik, and Bob Treuer."

Senator MUNDT. I call your attention to another CIO broadcast, July 11, 1955, Gerry Dale:

This morning local 833's executive board issued a news release expressing its gratitude for the solid support which has resulted in the return of Kohler clay ships to Montreal, Canada. At this time, the controversial clay is still a long way from the Kohler bin.

Is that an accurate statement?

Mr. CONGER. Yes, that is an accurate statement.

May I observe that when the clay finally did come in in railroad cars, the clay was picketed, the clay cars were picketed, and were held up for a while, although they were supervisory employees taking them through, and the pickets disposed themselves across the railroad tracks. At that time, Chief Wagner was sick and not on duty, and Captain Hemke had taken over charge of the thing and proceeded down there—in fact, he had his plans made—and he moved the pickets off the railroad tracks and the clay came through.

Senator MUNDT. This was after the failure to unload at Sheboygan and the failure to unload at Milwaukee, as I understand it, that it came in by railroad.

Mr. CONGER. Yes. The boat proceeded from Sheboygan to Milwaukee. Because of a threat of a citywide strike down there, they did not unload there. I think one of them actually docked in Milwaukee. I am not sure that the other one actually did dock.

Also, the union, I recall, made references in either its broadcast or its strike bulletin to the Norwegian *Flying Dutchman*, which was the clay boat without a port to land at, and the boat finally went back to Montreal.

(At this point Senator McClellan returned to the hearing room.)

Senator MUNDT. And the clay came in by rail from Montreal?

Mr. CONGER. The clay came in by rail from Montreal.

Senator MUNDT. And you say the railroad trains were picketed?

Mr. CONGER. Yes, the railroad trains were picketed.

Senator MUNDT. Did the Kohler Co. have an union—I think the proper term is a company union—before you had this other union?

Mr. CONGER. Well, that is a little bit of a fighting term, a company union, to me, Senator. We would not call it a union. I would like to call it an independent union, if I may.

The Independent Kohler Workers Association; yes.

Senator MUNDT. The Kohler Workers Association. It was testified in the early part of these hearings that this was company dominated. Is that correct?

Mr. CONGER. It was testified to that, that is correct. It was testified, but the testimony is absolutely incorrect. It was not a company-dominated union, and I would point out that—

Senator MUNDT. How do you distinguish between a company-dominated union and an independent union which is noncompany dominated?

Mr. CONGER. On the question of who finances it and who controls it. And how does the company bargain with it.

I might say I think probably the best way of distinguishing would be that in 1946 the AFL made another attempt to secure bargaining rights. The KWA defeated the AFL in that election.

In 1951 the UAW made an unsuccessful attempt through an NLRB election to obtain bargaining rights, and in none of those cases was there even a charge filed that this was a company-dominated union, although for it to have been a company-dominated union would have been a violation of the National Labor Relations Act. But no charge was ever filed.

Senator MUNDT. During this so-called period of 20 years of peace between the two strikes, was this the time in which the Kohler Workers Association was in operation, or did the KWA precede this first strike of 1934?

Mr. CONGER. The KWA preceded the first strike of 1934, and that was the issue in that strike, as to whether either of them had a majority right. It was a strike for recognition at that time, which the present one was not. Then there was an election in September, I believe, of 1934 KWA won the election and were certified by the National Labor Relations Board, the predecessor of the present board. That was before the Wagner Act. It was under 7 (a) of the National Recovery Act.

Then the KWA continued as a bargaining agent from that time on. As I said before, they were successful in retaining their bargaining rights in the 1946 election. They were successful again in 1951, and in 1952, after the union succeeded in persuading the officials—

Senator MUNDT. That sounds like a long answer in the affirmative. I will ask my question again. I said:

Was the KWA the union in charge during this period of 20 years of peace between the two strikes?

Mr. CONGER. Yes, sir. Up until the last year. From June of 1952 on it was the UAW.

Senator MUNDT. Up until June?

Mr. CONGER. Yes.

Senator MUNDT. I would like to read a paragraph from the decision of the National Labor Relations Board, page 75:

Thus it is clear that the company participated in forming and engaging actively in promoting the new organization, that the workers had no opportunity of expressing an unfettered choice as to whether or not they wished to belong to it, and that the company not only indicated its favorable attitude toward the organization but stood ready to finance its existence.

Under such circumstances, the organization could not have that independence which is essential to a true collective-bargaining agency, and the sudden and expensive promotion of the plan at the time when an outside union was just being formed, can only be presumed as a deliberate design to influence the allegiance of the employees and the interference of their free and unhampered self-organization which section 7 guaranties. The wrong done by the company, however, can be remedied by an election.

What have you to say about that situation?

Mr. CONGER. Yes; the board entered that order. Then the election was held. KWA won the election, and the board said:

Well, it is obvious that a majority, a vast majority of the employees has chosen this union by a free and voluntary choice—

and the company was directed to bargain with it.

Senator MUNDT. It is your testimony, then, that you subsequently complied with this order which says "the wrong done by the company can, however, be remedied by an election"?

Mr. CONGER. Well, I don't know that there was anything to comply with there. The election was held, and the wrong, if any, was complied with. I will say that that was back before the days of the Wagner Act, and some things, frankly, were done then that would now be a violation of the Wagner Act. But we didn't have the Wagner Act then. The board that we had in existence said, well, although they didn't agree with those things, they thought that they may have interfered with the free choice. When they found out that the employees, given a free choice, chose that union, they said "Well, this is it."

Senator MUNDT. You would agree, would you not, with the part of the finding that says that a union in a company which is financed by the company could not be a free bargaining agency and give the laborers an unfettered right to bargain at arm's length with their employers.

Mr. CONGER. We didn't agree at that time, Senator. But we certainly would have to agree today. Ever since the Wagner Act we would have to agree with it.

Mr. ERVIN. Pardon me a minute. I believe you used the term Wagner Act when you meant Taft-Hartley.

Mr. CONGER. No, Judge, I meant to go back to the Wagner Act. You see, this whole controversy in 1934 was before even the Wagner Act. As I say, some of the things that we did at that time would today be considered a violation of the Wagner Act and also the Taft-Hartley Act today. But we have not done them since.

Senator MUNDT. The Wagner Act was passed when? 1933?

Mr. CONGER. 1935.

Senator MUNDT. Between 1935 and the time the UAW was certified as a bargaining agent, during that interval, were any charges of improper practices filed against the company because of the KWA?

Mr. CONGER. No; I have a vague recollection of one charge being filed that was withdrawn shortly after, but there was no charge that ever proceeded to any hearing.

Senator MUNDT. During that period, there was no official action taken against the company because this was a company-dominated union?

Mr. CONGER. No, Senator; there was not.

Senator MUNDT. One other question:

Mr. Kitzman testified—I believe it was Mr. Kitzman—that the union was carrying full page advertisements, urging strikebreakers to come into the plant. Do you consider that a fair labor practice?

Mr. CONGER. I would consider that perfectly legitimate labor practice, but we didn't do it.

Senator MUNDT. You say you did not do it?

Mr. CONGER. Yes. My position is that it would have been perfectly legal for us to have done it, but that we chose not to do it. As a matter of fact, we never solicited any striker to return to work, or any new employee to come there. People that came there we wanted to come on a voluntary basis, and they did so. I take the position that

we had a legal right to advertise to ask them to come back to work, or we had a legal right to advertise for new employees, but that we actually did neither.

(At this point Senator Curtis entered the hearing room.)

Senator MUNDT. Quite apart from the fact that you contend it is legal and a proper practice, and I am not a lawyer so I will not get into an argument about that, Mr. Kitzman, if he is the witness that I have in mind, but some union official I am positive, testified at these hearings, said one of the reasons that they had to continue the mass picketing, one of the reasons, I suppose, eventually they resorted to what I call, improperly, I guess, a secondary boycott, but which they call a primary boycott against consumers products, I think that is right.

Anyhow, one of the reasons that motivated the boycott, motivated the mass picketing, the violence and the hot tempers was the fact that you had been advertising not only for your own employees to come back to the plant, but for strikebreakers to come in from the outside. Are you prepared to deny that under oath?

Mr. CONGER. Yes, Senator; categorically. We did not do that. I will submit that on the face of it that testimony is completely incredible. I can't think of a more senseless proceeding than for us to advertise for new employees when the old employees we had couldn't get through the line to get to work. I don't know how we would have expected to get new employees into the plant when we couldn't even get the old ones back who wanted to work.

Senator MUNDT. The company just relied upon people wanting to come in, who wanted to go back to work for their own jobs, and did not solicit them?

Mr. CONGER. We did not go out to solicit them, but we did, after the lines were opened up, if we had openings, continue our old practice of hiring those who came. We did not just rely on the ones coming back.

Senator MUNDT. The union testified—and I do not want this to have an evil connotation—had agents, representatives, call them what you will, employees, associates, friends, going around among the strikers, urging them to stay out, shoring up their opposition, encouraging their resistance.

Did you have people on your payroll running around Sheboygan and Kohler Village urging the people who were strikers, or who were kept out by picket lines, to keep on trying to get back, "Don't be discouraged, keep on trying every morning and eventually you will get through."

Mr. CONGER. No; we did not. While it is possible for an employer to have some solicitation or some—it is not utterly illegal for him to ask a striker to come back to work—he is certainly under a great deal more handicap in that respect than the union is in asking him to stay out. The union can go to him and say "Stay out, don't come back to work, and we will give you strike benefits," but if we go to him and say "Come back in, we will give you a couple more cents per hour than we did before," we would be guilty of an unfair labor practice.

Senator MUNDT. Under the Taft-Hartley Act?

Mr. CONGER. Under the Taft-Hartley Act; yes, Senator.

Senator MUNDT. That looks to me like it puts a rather curious imbalance into a picture of that kind, if you are going to have a one-

sided debate. I thought Taft-Hartley, in part, straightened that out by giving the employers the right to talk to their employees, just as it permitted union officials to come on company premises to talk to their's.

Mr. CONGER. It did not that completely, Senator.

Senator MUNDT. Not as far as strikes are concerned?

Mr. CONGER. No.

Senator MUNDT. I am through, Mr. Chairman.

Senator CURTIS. I have a few questions, Mr. Chairman.

Mr. Conger, I want to ask you under oath did the Kohler Co. directly or indirectly commit acts of violence or vandalism or promote them in any way?

Mr. CONGER. No, we did not. I think Senator Mundt asked that same question, or a similar one, and I want to give the same answer. First, it is definitely and categorically "No," and we would have had no reason to do that because we were not interested in scaring people from coming back to work at the Kohler plant. We were interested in having them free to come back without being scared.

Senator CURTIS. I forgot to ask Mr. Biever when he was here the other day, but there was testimony that he was subpoenaed seven times and the process server couldn't find him. What do you know about that?

Mr. CONGER. I know quite a bit of it, and I know probably more than Mr. Biever does because I was there when it started. In the NLRB case, or the Government part of it, the prosecution part of it was drawing to a close and they announced in the papers that they intended to end the case that day. In order to end the case, it was decided to hold an evening session, which we hadn't held up to that time. At approximately 5:10 p. m., the attorney for the NLRB turned to me and said, "Will you produce Mr. Biever by 7 o'clock this evening?" And I said, "No, I won't. I can't." I had known that Mr. Biever had been out of town quite a bit in connection with our Spartanburg plant, and I knew he had been out of town, and I didn't know whether he was back or not or what had happened.

I was, frankly, a little provoked. We had produced witness after witness after witness when they had been asked for, and to be given a sudden summons to produce a witness on less than 2 hours' notice frankly burned me up a little bit. I said we wouldn't do it.

Nevertheless, as soon as I got out of there I went home and I called Mr. Biever, and I found out he was not home. He had left on a short vacation.

Then they started serving subpoenas. They served 7 subpoenas within a period of 2 days, and I am quite sure within a period of about 24 hours. Three subpoenas were put through his mail slot, 2 were dropped off at his office, and I think 1 was dropped off at the gate, and then there was a great furor about Mr. Biever having ducked 7 subpoenas.

I will say, frankly, I can't see any reason why seven subpoenas should have been issued for a man that they knew was out of town.

We had some hassle about the thing when he got back, and I promised that when the next hearing was held, which would be in about 2 weeks, I think, we anticipated at that time, and I think it was longer than that in the interim, but when the next hearing was held I would

produce Mr. Biever voluntarily. And we did produce him and he did testify in the NLRB case.

Senator CURTIS. The subpoenas in question were within a period of 2 days?

Mr. CONGER. Yes, sir. One of them was dated June 29, and I know that it could not have been issued before 5 o'clock in the evening that day. The other six were dated June 30.

Senator CURTIS. What were those dates again?

Mr. CONGER. June 29 for 1 and 6 for June 30. I think I have the right dates.

Senator CURTIS. They were consecutive dates, that is what I wanted to know.

Mr. CONGER. They were consecutive days; yes.

Senator CURTIS. Now, has the Kohler Co. perpetrated hoaxes that were testified to here? I think one was called a Joyce incident, and a Frank Collins incident, and something about cows.

Mr. CONGER. No, sir, I cannot add too much to the testimony of Mr. Desmond on the Joyce incident, except that I was in on it. Mr. Desmond and one of these private detectives went out there and came back and reported to me that they were rather suspicious of the thing. I said to them, "Well, certainly I know enough about a shotgun to know if it is fired at that range, and a man coming out of a garage door, there ought to be some pellets somewhere around the wood out there."

They went out there again and looked it over and found no pellets, and so they moved over on a different side of the building and fired against the building to assure themselves that the spread of the shotgun would be enough so that had there been a gun fired at an intruder there would be some evidence of it on the building. There was no attempt ever made by anyone to represent that that shot fired in there was the same shot that Joyce claimed he fired.

Senator CURTIS. On that Joyce incident, were those shots fired to test the accuracy of a report or to manufacture evidence?

Mr. CONGER. They were fired to test the accuracy of a report which we doubted, and, in my opinion, the test showed that the shot had not been fired. That is why we got the man to go up and take a lie-detector test, and which he flunked, and he admitted that he had fabricated the whole story.

Incidentally, I will say that we did not publicize that story, and that publicity on that came from the sheriff's department.

Senator CURTIS. How about the other instance?

Mr. CONGER. The other incident was a fellow, and this happened quite late in the strike, a fellow got quite drunk and he slipped in his drunken condition and hit his head against the curbstone and came out to our medical department with a story that he had been assaulted.

Our company doctor reported to us—incidentally, he was a little bit wrathful about being gotten out of bed in the morning, about 3 o'clock, that he thought the incident was a hoax, and the injuries did not appear to have been caused the way it was, and the man was in a highly intoxicated condition. He said he didn't think there was anything to it.

Well, somehow or other the man got in touch with the police department, and we didn't play a part in that, and he confessed to the

police that he had not been attacked, that he had just made up that story to explain the injuries to his head, which he was afraid might cause him a little trouble. Also, he wanted to get some free medical attention out of the Kohler Co., which he got, incidentally, but he didn't get any free legal services nor did we pay the fine which he later—I think he was fined for that.

The other one, that was referred to Mr. Mazey's testimony as a hoax, was not a hoax. That was a case of slashing udders on cows, and the sheriff went out there and made a very superficial investigation and said, "Oh, this looks like barbed wire."

We have in our possession affidavits from a veterinarian that in his opinion that injury could not have been caused by barbed wire, and it was caused by a sharp instrument. I am not sure whether he made the suggestion but somebody said they thought it was a straight-edged razor.

Both of the farmers came out after the sheriff announced that, with very indignant denials in the Sheboygan Press and pointed out that the sheriff had made no investigation, and that he didn't even go around to the field to see whether there was blood and hair on the fences as there would have been had the injury been caused by barbed wire, and stated that again in their opinion that this was the type of injury which would not have been caused by barbed wire, because barbed wire leaves a very jagged wound, and it is not very sharp naturally, while this was something that was done with a very sharp instrument.

If there was any hoax in that one it was a hoax of the sheriff on the public.

Senator CURTIS. Now, I have asked you about vandalism and violence, and what do you say as to Mr. Rand's testimony about home demonstrations and picketing, and crowds in front of a home? Did the company sponsor these things or promote them?

Mr. CONGER. No, we did not sponsor them or promote them, and we had no way of doing so. We had no way of getting a bunch of strikers and strike sympathizers out to harrass one of our employees. There, again, we were not interested in having those employees scared from coming to work, and many of them were after they had these home demonstrations, and they would let us know or call up and say, "Well, I can take this, I can take the harassment that I have got going through, but my wife and family just can't stand this and I am going to have to stay home until these things stop."

Now, we weren't interested in scaring people away from work and we were interested in having them come to work.

Senator CURTIS. I have one other inquiry, and then I am through. Figures were discussed here as to how many of your original workers, and by that I mean workers before the strike was called, came back to work. In your opinion do you think that the home demonstrations and the home picketing, or however you describe it, plus the vandalism that occurred at nonstrikers' homes, was a factor as to whether or not people would come back to work?

Mr. CONGER. There was no question, Senator, but what it was a factor, and a very great factor. There were a great many people that we know, and many more that we would think wanted to come back

to work. We would get reports all of the time from some neighbor of so and so who said he would like to come back to work but he just didn't dare. He was hearing these things going on. They were factors even beyond the time when they pretty much abated and discontinued.

But when you build up a reign of terror like that in a community, where people are even afraid to go to the police with their complaints, you don't wipe that out overnight.

Senator CURTIS. That is all.

The CHAIRMAN. Senator Ervin, do you have any questions?

Senator ERVIN. Mr. Conger, I am interested not so much in the evidence as what we should do as a result of the evidence, or what can be done, but do you have any suggestions as to how it would be possible to prevent violence in industrial disputes?

Mr. CONGER. Yes, Senator, I had one. I was thinking, perhaps, that I would postpone that to some later date, but I would like to say now that I think there is one very effective thing that could be done. I think a union which openly and flagrantly violates the Taft-Hartley Act by this kind of conduct should be deprived of any remedy under the Taft-Hartley Act and any rights under it. If there is a point and I said before I didn't want to argue the examiner's decision, and I don't want to, but I just want to say this: That it is absolutely impossible, whether it be the National Labor Relations Board or whether it be Judge Murphy, to say that here is a situation where there is all kinds of illegal conduct and illegal coercion going on, and then the employers conduct can be considered over here in a vacuum, and say, "Well, he wasn't bargaining in good faith, and we are going to consider this and not consider all of this other stuff going on."

I think that a union which openly and flagrantly violates the act as this one has done should be deprived of any remedy under the act.

Senator ERVIN. I have been concerned, and historically the preservation of law and order is a state function in the United States, and, of course, where you have violence it is crime under the old statutory law or common law in practically all of the States of the country, either to commit an assault or battery, or even to engage in mass picketing which keeps a man from going where he desires to go. At least it is under all of the law I know of. If you prevent a man from going where he desires to go under our law that is an assault, even though you do not touch him. I am very reluctant to see any law passed in which the Federal Government itself would step in and start to supplant the position of the State in the enforcement of criminal laws in violence in industrial disputes or any other matter.

Your suggestion is that there should be an amendment to the Taft-Hartley law to penalize a union which, as you express it, flagrantly engages or encourages violence in its dispute?

Mr. CONGER. Yes. I couldn't agree with anyone more strongly than I agree with you, Senator, that the preservation of the populace against violence and vandalism is a State function, and I am quite proud of the part that I played in getting that determination from the Supreme Court of the United States that it was.

I think the reason that we have violence and vandalism in these strikes is that it usually pays off and one of the ways it pays off, of

course, is through the fact that in spite of that they can still go to the NLRB and possibly get relief.

Here is a case where we were accused of unfair labor practices going back before the strike. The examiner has not found us guilty of that, but if that were true, Senator, they knew about it before the strike.

But they chose to have this ordeal of combat first, and this illegal conduct first, and then when that was obviously failing then they first turned to the legal remedy.

We think that is all wrong, and we think they ought to turn to the legal remedy first, and if we did not bargain in good faith before the strike they ought to have filed those charges before the strike and not wait until we had gotten an injunction or cease and desist order to prevent this mass picketing and then say, "Well, now, we are going to try our legal remedy."

Senator ERVIN. That is all.

The CHAIRMAN. Are there any other questions?

The Chair would ask you one or two questions.

With respect to Mr. Biever avoiding subpoenas, I believe you said you went and called him up immediately around 5 o'clock or afterwards when the first request was made of you?

Mr. CONGER. Yes, sir.

The CHAIRMAN. You found out he was out of town?

Mr. CONGER. Yes, sir.

The CHAIRMAN. Did you learn where he was?

Mr. CONGER. I didn't until some time later. He had left on a short vacation trip, and I am sorry I didn't finish that story and I will finish it now. He had left on a short vacation trip, and I may say that both Mr. Biever and I were under instructions from Mr. Herbert V. Kohler, we had spent many hours and many long hours, and Mr. Kohler had given us both instructions "at any time you get a chance to get away for a few days just up and go."

Mr. Biever and I are both in the position where the only way we will get any vacation is to go and not leave the telephone number behind us.

The CHAIRMAN. I don't want to get into all of the details.

Did you know where he was?

Mr. CONGER. I didn't know where he was, and I tried to locate him in three Madison hotels. I thought he might be down there, and eventually he heard over the radio that he was being looked for and he cut short his vacation and he came back, and by that time the hearing had adjourned.

The CHAIRMAN. How soon afterwards did he appear before the National Labor Relations Board?

Mr. CONGER. I think it was about, as I recall it, Senator, I think the hearing adjourned for 2 weeks, and then I think some other things came up and I think it was about a month or 2 months before he actually testified, and I would have to check the record on it.

The CHAIRMAN. When he appeared, did he appear in response to a subpoena or upon his direction from his company?

Mr. CONGER. He appeared in response to my promise to produce him.

The CHAIRMAN. Is there anything further?

Mr. CONGER. I have the exact dates, Senator.

The hearing resumed on July 20, and this was June 30.

The CHAIRMAN. It was about 20 days or 3 weeks later?

Mr. CONGER. Yes, sir.

The CHAIRMAN. If there is nothing further before excusing the witness, the Chair would like to instruct the reporter at the beginning of this witness' testimony today, to let the record show that Mr. Smith, Ellison D. Smith, an attorney of South Carolina, appears here, and Mr. William F. Howe, of Washington, D. C.

We will show that at the beginning of the testimony.

Mr. SMITH. Are you through with us?

The CHAIRMAN. As far as I know.

Mr. HOWE. You mentioned us producing an itemization of the people, of the number of people who had returned to work. I sort of think that was clarified with Mr. Kennedy's 1,380.

The CHAIRMAN. I think that has been cleared up.

I would like to have Mr. Conger provide us in the morning with the memorandum that has been requested.

I believe that will clear up all the unfinished business as of now.

Mr. ELLISON SMITH. The Chair wants based upon Mr. Conger's best knowledge, the issues which are presently in dispute between the company and the union. Is that basically it?

The CHAIRMAN. That have not been resolved, and would have yet to be resolved if the strike were to be settled, in his opinion.

Mr. ELLISON SMITH. That is all right.

The CHAIRMAN. Now, Mr. Rauh has requested that an affidavit from Mr. Paul Sifton be placed in the record, and that a document or publication to which it refers be made an exhibit in the record.

I have shown a copy of this affidavit to Senator Mundt, and I believe he is away now. It referred to some testimony that Senator Mundt elicited from a witness regarding Mr. Paul Sifton, and some statement or publication he had made some 25 years ago.

The purpose of this affidavit is to establish by Mr. Sifton that some 17 years ago he repudiated the statement that he had made 25 years ago. That is the substance of it, and we will not take time to read it, and without objection the affidavit will be placed in the record at this point, and the document attached, an article in the Black Diamond of November 11, and I don't have the year, will be made exhibit No. 106 for reference only.

(The document referred to was marked "Exhibit No. 106" for reference and may be found in the files of the select committee.)

(The affidavit is as follows:)

AFFIDAVIT

Paul Sifton, being duly sworn, deposes and says:

(1) On Monday, March 10, 1958, Senator Mundt referred to an article by me published in 1933.

(2) I did in fact write this article 25 years ago; I repudiated it as invalid more than 17 years ago.

(3) My repudiation of the article as invalid was contained in a statement by me which appeared in the semimonthly magazine Black Diamond, a coal-industry publication, in November 1940.

I stated then, as set forth in the magazine, my reasons for saying of the 1933 article, "Today that article, which had some validity when written, is invalid." The attached photostat is a true and correct copy of the page in the Black Diamond containing my statement.

(4) As set forth above, I stated 17 years ago that the article referred to by Senator Mundt was invalid; it is invalid today.

(5) Had Senator Mundt inquired of me or engaged in any research, he would have found that I had long ago repudiated this article as invalid.

(6) It is requested, in accordance with the permission granted by the chairman, that this affidavit be inserted in the record at the point where Senator Mundt referred to my article and that the attachment either be inserted in the record at that point or made an exhibit.

PAUL SIFTON.

Subscribed and sworn to before me this 14th day of March 1958.

MARY C. ASAY, *Notary Public*.

My commission expires December 31, 1962.

Senator CURTIS. I shall not object to that. It is Senator Mundt's development, and I don't know the details. But Mr. Rauh, who is Mr. Sifton, and where does he reside and would he be available on this or any other matter for testimony.

Mr. RAUH. He is available on any matter at any time. In order to expedite the hearing and at the request, I thought it was the chairman's idea that we would speed it up, we produced an affidavit saying that he said this 25 years ago, and he repudiated it 17 years ago, and we really thought Senator Mundt should have known that.

(Members of the Select Committee present at this point were Senators McClellan, Ervin, and Curtis.)

Senator CURTIS. I am not going into the merit of it. I do not know anything about it. For the record, who is he and where does he live?

Mr. RAUH. It is in the record, but he is the legislative representative of the United Automobile Workers, and he lives on Highland Place, Washington, D. C.

The CHAIRMAN. Where?

Mr. RAUH. Here.

The CHAIRMAN. He lives here?

Mr. RAUH. Yes, sir. You can have him anytime you want him. We were trying to speed it up.

The CHAIRMAN. I did not know he lived here.

The Chair has already ruled on it.

Senator CURTIS. I have no objections.

The CHAIRMAN. All right.

Mr. RAUH. Mr. Chairman, on a different matter, sir, I was under the impression that you had asked us if we were going to supply in the morning not only our understanding of the different issues that were still open, but the statement of our position on those issues.

As Mr. Smith stated, he did not put in the second half. We intended to present both what we understood to be the open issues, and our position.

The CHAIRMAN. Is Mr. Conger still here?

Mr. CONGER. I am.

The CHAIRMAN. You gentlemen do the same. Maybe inadvertently the Chair failed to state it. What I wanted was so that this committee could get immediately the present picture of the situation.

Mr. CONGER. We will do that in the morning, Mr. Chairman.

Mr. HOWE. We will do that to the best of our ability.

The CHAIRMAN. Mr. Vinson, you may be sworn in.

Do you solemnly swear that the evidence you shall give before this Senate Select Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. VINSON. I do.

STATEMENT OF ALBERT VINSON

The CHAIRMAN. Mr. Vinson, state your name, your place of residence and your business or occupation.

Mr. VINSON. Albert Vinson, 728 Grand Avenue, Sheboygan, Wis. I am the editor of a weekly publication called "The Pitch."

The CHAIRMAN. Thank you very much. You are testifying by request, I believe.

Mr. VINSON. Yes, sir, I am.

The CHAIRMAN. You have submitted a prepared statement that you desire to read?

Mr. VINSON. Yes, sir, I do.

Could I just ask if someone would hand my glasses to me over there, please.

The CHAIRMAN. You submitted a statement. The Chair, together with Senator Curtis who is present, has examined the statement which you have submitted and it is our view that there is nothing in it of substance in the way of evidence, so far as this committee is concerned, with respect to what it is investigating.

However, since you state in your statement that some business interests or community interests of Sheboygan, I believe it is——

Mr. VINSON. Yes, sir.

The CHAIRMAN. Sent you here, I am going to permit you to read your statement at this time and then submit your statement to the full committee to determine whether they feel that it should be made a part of the record.

I have read your statement. It is very commendable insofar as you want to state the position and attitude of the community. But, after all, we are trying to get into questions of what is and what is not an improper practice in the labor-management relations.

So I am going to let him read his statement at this time and then I will submit the statement to the full committee and they may determine whether it shall become a matter of record.

Proceed with your statement.

Is that satisfactory, Senator?

Senator CURTIS. That is all right.

Mr. VINSON. Honorable Mr. Chairman and members of this Senate investigating committee, Mr. Robert Kennedy, and all persons assembled in this hearing room, Senator McClellan and members of the committee, you are most gracious in allowing me a few minutes here to speak on behalf of the Sheboygan, Wis., community.

The statements I am about to make are prepared ones, so no one in this room is going to be treated to either a street-corner harangue or a great flow of hifalutin oratory. You've doubtless had plenty of both already during these hearings.

The group, which is responsible for my presence here today, are some 70 builders and traders of the Sheboygan County Contractors' Association. They are paying my expenses to the extent of \$250 for the 5, I will have to say 6, days I will have been in Washington.

No other organization or person has advanced me any funds. And there are no strings attached or "special interest" obligations involved in my acceptance of the \$250 to perform the service I am now doing at this moment. My one and only instruction from the Sheboygan

County Contractors' Association was for me to represent here the best interests of the entire Sheboygan community.

This group of builders and traders from Sheboygan County are truly representative of the industry and integrity of the majority of individuals who reside and work in that community. These men are heads of small businesses, which they have worked hard to build up over the past 35 to 40 years. Time, effort, money, skill, and good faith have gone into the dealings with their clients.

These conscientious practices of hard work and the keen sense of human values are integral parts of the deliberate habits and outlook of the Sheboygan community.

We in Sheboygan believe that the basic interests of our community are at stake in what has been coming out of the committee's probe into the Kohler strike situation. The findings are old and disreputable history to the residents of Sheboygan, but the testimony is "new" and "ugly fresh" to most of the rest of the Nation.

We believe that the impressions now being created in the minds of millions of persons across the United States should not be the only measure of Sheboygan, as a community. We deplore the effects of the bitter strike influence on our families. The dispute between the UAW-CIO and the Kohler Co. was not of our making, and we will resist with all the strength of our combined spirit and God-given power any continued invasion of our rights by those who seek to disrupt peace and disregard law and order.

We believe that the natural interests of our community have been lost in the shuffle and crossfire of charges and countercharges between the two parties to the dispute.

There are about 80,000 men, women, and children living in Sheboygan County. Little more than 3 percent are directly associated with either the Kohler Co. or the UAW-CIO unit, local 833. Then why should the 97 percent of the people, totally unrelated to the 4-year struggle, be swept into a "No Man's Land" of confusion and conflict?

The answer, although miserable, is relatively simple.

The black and white approach to the labor-management impasse has been thrust into the foreground by two narrow channels of special interest. The cry of both sides has been, "If you're not for us, you must be against us!" Many persons, who are in a position to adopt an objective outlook, have failed to do so, and hence the community has been split in many ways: in church groups, in experiences at school, in neighborhoods, and, worst of all, in family relations. There have been several individual emotional cave-ins stemming from these severe mental tensions.

There are persons in Sheboygan who do not subscribe to the idea that "you must be for us or else you're against us." These particular folks react in different ways. Some are just plain indifferent, but there are few of those. Others subject themselves to the gloomy, negative outlook. Still others want to deny or ignore the social pressures which have been brought to bear on the community by strife and "angled" propaganda. They say in effect, "We're tired of it all. Let's forget it."

Then there are those individuals, akin to the men who are members of the Sheboygan County Contractors' Association. They believe firmly in the community where they carry on their respective busi-

nesses, which they have so earnestly worked at in order to make them paying operations. They are quite aware of the many difficulties now confronting those persons who live in Sheboygan. But they also believe that Sheboygan has been good to them and their families, because they, in turn, have tried to give their best efforts and service to the community.

In short, as loyal and decent citizens, their personal lives have been guided by a respect for their neighbor's rights, likes, and dislikes. Their neighbors respect law and order, go about the business of making a living on the basis of an "honest day's work for a fair day's wages" and pride themselves in having neatly kept and comfortable homes. Therefore, it is little wonder that they are angry about an outside influence, which bullies its way into their lives and is bent on upsetting peaceful and friendly relations among families and neighbors.

The fear in the lives of too many Sheboygan residents has come about through two main causes: (1) Actual acts of violence and threats against person and property; and (2) a woeful lack of communication among groups and persons within the community, thereby blocking off ways for bringing about an understanding of the grievous problem affecting all men, women, and children in varying degrees of intensity.

Unfortunately, in Sheboygan today there is no media which is interpreting the real meaning of what has happened, and is happening, to the outlook and attitudes of the people. Sheboygan is changing, and it is not all for the worst, but it is difficult to assess the comparative gains and losses without accurate information on which to base valid opinion.

In the March 17 issue of Time magazine some bright young writer has gone hog wild with a little piece entitled "The 'Almost Sinful' Strike." One statement, among others, is at variance with the current facts, as they concern the Sheboygan area.

Here is the statement:

Sheboygan's hate reaches even to the children; an everyday sight is a tight-lipped child followed by other children shrilly jeering, "Your father's a dirty scab."

The term, "Sheboygan's hate," is misleading and inaccurate. Sheboygan is not some Robie, the Robot, controlled from outer space. On the contrary, the community is made up of staunch German and Dutch residents, for the most part, and these persons are intensely loyal to their friends and considerate of their neighbors.

Their trusting nature does not include the know-how for meeting and solving the problem of a harsh, driving outside force. This influence is totally foreign to their concept of what Sheboygan has been in the past and should be now. They feel they are caught in a vise, and they do not know how to loosen the pressure.

It is true that 7, 8, and 9-year-old children, now 11, 12, and 13 years of age, were indoctrinated with the "scab" password of hate on a strikerwide scale in 1954, 1955, and 1956. This is perhaps the most tragic aspect of the picture, apart from the persons who were harmed physically. The effect was as though a dose of epidemic propaganda had been injected into the community's bloodstream.

However, this "scab calling" abated in 1957 and today it is not an everyday occurrence on anything like a widespread scale. Rather, the parents who taught their children to call other boys and girls "scabs" began to become weary from sheer bitterness and their feelings veered into a smoldering resentment. Hence, the lessening of this brand of name calling among the children, and several of the families in whose homes "scab" was a household word, moved out of the community when the father took a job elsewhere.

An accurate and truly understanding account of the many influences of the strike on the Sheboygan community has yet to be written for a newspaper or magazine, and a book does not exist that tells the true story. Apparently, mass production newspaper and magazine office procedures, and deadlines "yesterday." preclude this possibility.

The pastors and priests in Sheboygan have done a heroic job in their efforts to lessen tension and to try to heal emotional wounds caused by differences riled by the strike influence. Sheboygan clergymen have been subjected to unfair criticism and even vilification from outside the community, but they have not permitted these assaults on their spiritual leadership to interfere with their earnest work to bring understanding into the lives of troubled men, women, and children.

There must always be leeway for intelligent disagreement, because then there can be the hope and opportunity to come to some sensible agreement on enough points to resolve the problem.

Abraham Lincoln, even as a Congressman from Springfield, Ill., sought out those, whom he knew disagreed with some of his thinking. This he did, not to pick a bitter fight, but rather to get the other man's viewpoint so that he could more carefully weigh his own ideas and thoughts.

This approach by Lincoln in resolving a problem and bringing about changes in a give-and-take way served the Nation's best interests when he became President.

There is always a way to resolve man-made problems, if men will let God's will prevail in human relations.

We in Sheboygan care deeply about what happens in our community, and we also care about what others think of us.

Thank you, Mr. Chairman.

(At this point, Senator Mundt entered the hearing room.)

The CHAIRMAN. Thank you.

The Chair again will advise the witness that that testimony or statement will be submitted to the full committee as to its covering any particular issue involved here in which the committee is interested officially and under the charge of responsibility and the resolution creating it.

I doubt seriously that your statement goes to anything of substance. It may speak the sentiment of the people of your community and that is all right. So we will determine whether it goes into the record or whether it is merely filed as an exhibit.

Thank you very much.

Mr. VINSON. Thank you very much, sir.

The CHAIRMAN. All right.

TESTIMONY OF CARMINE S. BELLINO—Resumed

The CHAIRMAN. Go ahead, Mr. Counsel.

Mr. KENNEDY. Mr. Bellino, you have made an investigation and study of the books of the local from where Mr. William Vinson and Mr. Gunaca came when they came to Kohler, Wisconsin?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. That is local 212 in Detroit?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. You went out there and studied these books approximately when?

Mr. BELLINO. Some time in February, I believe it was.

Mr. KENNEDY. And at approximately the same time that you looked through the books of the Kohler Co.; is that right?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. And you also studied the books and records of the international?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. Would you tell the committee what you found as far as the payments on Vinson and Gunaca, their attorney fees, and what they got paid while they were in Sheboygan, Wis.?

Mr. BELLINO. Yes, sir. The total amount of payments to William Vinson or on behalf of William Vinson, amounted to \$10,079.70.

Mr. KENNEDY. What period was that?

Mr. BELLINO. That is from April 8, 1954, through January 11, 1956.

Mr. KENNEDY. Was that payment just to him, or are there also payments to his wife?

Mr. BELLINO. That includes payments to his wife from about November 1954 through January 11, 1956.

Mr. KENNEDY. Is that the period in which he was incarcerated?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. In jail?

Mr. BELLINO. Yes, sir, I believe so. Yes, sir.

Mr. KENNEDY. How much were those payments to his wife while he was in jail?

Mr. BELLINO. The payments to Anne Vinson amounted to \$6,737.46.

Mr. KENNEDY. At the rate of how much?

Mr. BELLINO. Around \$100 a week, I believe it was.

Mr. KENNEDY. Does that include the payments that he got from the international?

Mr. BELLINO. Those were payments made from the international to Mrs. Vinson. William Vinson received \$177 from the international, plus \$2,881.99 from local 212. It makes a total for Anne Vinson from the international and local of \$8,796.45.

Mr. KENNEDY. That is to Anne Vinson?

Mr. BELLINO. Anne Vinson and William Vinson.

Mr. KENNEDY. Anne Vinson and William Vinson, during what period?

Mr. BELLINO. During the period from April 8, 1954, through January 11, 1956.

Mr. KENNEDY. And that is payments from the international and from the local?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. I thought we had a \$10,000 figure.

Mr. BELLINO. The additional payments are bail bond payments of \$60; fines paid, \$33.25; and fees to attorney of \$190, which makes a total of \$10,079.70.

Mr. KENNEDY. How much of that was during the period of time in which he was in jail? How much of the salary was paid?

Mr. BELLINO. Most of what was paid to Anne Vinson was during the time that he was in jail. That would be \$6,737.46. There was paid to John Gunaca, or on his behalf, a total of \$7,931.33, of which he received salary from local 212 of \$2,883.40.

There was payments on his renewal bond of \$450, and attorneys' fees of \$4,597.93, or a total of \$7,831.33.

Mr. KENNEDY. What period was it that he was receiving moneys from the international?

Mr. BELLINO. That was from April 8, 1954, to the period ending July 16, 1954.

Mr. KENNEDY. And the legal fees have been since what time?

Mr. BELLINO. Since then.

Mr. KENNEDY. And they amount to over \$4,000? Is that right?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. He has received a total of how much altogether?

Mr. BELLINO. Altogether, \$7,931.33.

Mr. KENNEDY. Do you have payments to other individuals that came out of local 212?

Mr. BELLINO. Yes, sir. Boisland was paid a total of \$2,896.15; James Connor, \$409.80; Frank Kay received \$110 in cash, or at least I understand, was used for expenses given to Gunaca and Vinson when they went to Sheboygan.

Then there was a \$10 cash payment which merely indicated it was cash, but I do not know what the actual \$10 went for. It is a total of \$21,936.98.

Mr. KENNEDY. For these individuals?

Mr. BELLINO. Yes, sir.

Mr. KENNEDY. Payments to and on behalf of these individuals whose names you mentioned, is that right?

Mr. BELLINO. Yes, sir.

Senator CURTIS. By whom?

Mr. BELLINO. Both local 212 and the international.

Mr. KENNEDY. With the vast majority of it going to Gunaca and Vinson, is that correct?

Mr. BELLINO. Yes.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. During the time Mr. Vinson was in jail, were there any payments made to him, or were they all to Mrs. Vinson?

Mr. BELLINO. They were all to Mrs. Vinson, Mrs. Anne Vinson.

Senator CURTIS. I believe you gave the total figure for Gunaca as \$7,931.33.

Mr. BELLINO. Yes, sir.

Senator CURTIS. Over how long a time?

Mr. BELLINO. That is over a period from April 8, 1954, to July 16, 1954, which is salary, and then, the attorney fees cover up to the end of December 31, 1957, I believe.

Senator CURTIS. But those expenditures arise out of about 3 months' service down in the Kohler area?

Mr. BELLINO. Well, from April—yes, sir, that is right. From April 8, 1954, to July 16, 1954.

Senator CURTIS. Three months and eight days, about?

Mr. BELLINO. Yes, sir.

Senator CURTIS. And of that \$7,931.33, how much did you say came from the local and how much from the international?

Mr. BELLINO. From the local was \$2,883.40. I might say, these are the payments that were made to them. The local paid one-half, and the international paid one-half, but the payments were made by the international. The local was responsible for one-half of it.

Senator CURTIS. And after the reckoning, the exchange of checks was completed, this figure that you gave me that is the net amount that the local paid?

Mr. BELLINO. The net amount that Gunaca received was \$2,883.40.

Senator CURTIS. From whom?

Mr. BELLINO. Well, one-half of that would have come from the local, but it all came from the international originally, and then the local reimbursed the international.

Senator CURTIS. What do you mean by \$2,883.40 being the net amount? The balance was for attorneys' fees and costs of that kind?

Mr. BELLINO. Yes, sir; that came from the international. In other words, the bills were submitted to the international for the renewal bond and the attorneys fees and they were paid by the international.

Senator CURTIS. Have either the international or local paid Gunaca any money after he left Wisconsin other than attorneys fees and related expenses of that kind?

Mr. BELLINO. Not as far as I could observe, Senator.

Senator CURTIS. Do you happen to know whether or not the membership of local 212 specifically authorized these expenditures for Vinson and for his wife?

Mr. BELLINO. I did not find anything where they were specifically authorized. However, there was in the minutes of local 212 a statement along the lines as to why they were sending four men to Sheboygan. In other words, there was authority given to them to send the four initial men to Sheboygan. But I do not recall seeing any authorization with respect to the subsequent payments.

Senator CURTIS. In other words, what you did see was notice to the members that they were authorized to go down there because it recited the reason for them going?

Mr. BELLINO. Yes, sir. In fact, I have the minutes here.

Senator CURTIS. What does it say?

Mr. BELLINO. These are the minutes of the local 212, dated April 14, 1954:

The board was then informed of the situation that presently exists in the Kohler plant in Wisconsin. The people in this plant have been on strike for about the last week and a half, and are maintaining good, solid picket lines. Brothers Emile Mazey, Jess Ferraza, and Jim Fiore, who are actively participating in the strike were sent to jail for violation of a city ordinance, which states that a person may not project his views over a distance of 100 feet.

They were released on bail and their case will come up shortly and undoubtedly will be carried to the Supreme Court on the basis of violation of freedom of speech. Although the members of our own union who are participating in this strike are very militant and aggressive people, they lack a certain amount of seasoned leadership.

Realizing this, and wishing to be of some assistance the officers of local 212 sent four of our own local 212 members to Wisconsin to help out in the strike. The company has tried a back-to-work movement twice, and both times it has failed.

Mr. KENNEDY. That is Ken Morris, the president.

Mr. BELLINO (reading) :

Recommended that the executive board concur in the action that the officers took in sending four members from our local union to assist in the Kohler strike and at the same time stated that Brother Emile Mazey, secretary-treasurer, said it would be O. K. if the expenses of these people were paid from the local 212 strike fund.

Senator CURTIS. And that is the record that you found that would relate to all of these men mentioned that came from 212?

Mr. BELLINO. Yes, sir.

Senator CURTIS. Did you find anything that indicated notice to the members of 212 that payments were being made to maintain family income for the Vinsons in the event that he was convicted of a crime not at the scene of the picket line nor on the job, nor in connection with any collective bargaining activity?

Mr. BELLINO. No, sir; I did not find anything of that nature. However, this union follows a practice of publishing all payments that are made, and I cannot say that I have examined that to see if any of these payments are listed in the publication that they put out each year.

It is possible that there may be some notation, but I do not recall actually looking for it to see if it was in there.

Senator CURTIS. According to Vinson's testimony, as I recall it, he became involved because of two things: He was intoxicated, or he had been drinking and, secondly, there were things said, from his statement, there were things said in the tavern that he resented.

But they were quite removed from the conduct of the strike, even if the local members had authorized payments while somebody was in jail for those activities.

That is all, Mr. Chairman.

The CHAIRMAN. Is there anything further?

If not, thank you very much.

Is there anything further before we recess?

Mr. KENNEDY. No, Mr. Chairman.

The CHAIRMAN. The committee will stand in recess until 10 o'clock in the morning, at which time we will resume hearings in room 318.

(Whereupon, at 5:30 p. m., the hearing in the above-entitled matter was recessed, to reconvene at 10 a. m., on the following day.)

(Members of the select committee present at the taking of the recess were Senators McClellan, Ervin, and Curtis.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

THURSDAY, MARCH 20, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee met at 10 a. m., pursuant to Senate Resolution 221, agreed to January 29, 1958, in the caucus room, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Barry Goldwater, Republican, Arizona; Senator Karl E. Mundt, Republican, South Dakota; Senator Carl T. Curtis, Republican, Nebraska.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Adlerman, assistant chief counsel; John J. McGovern, assistant counsel; Ruth Young Watt, chief clerk.

The CHAIRMAN. The committee will come to order.

(Members of the committee present at the convening of the session were: Senators McClellan, Goldwater, and Curtis.)

The CHAIRMAN. On yesterday during the course of the hearings it was suggested, and the Chair requested each side of this controversy, a representative of the company and also a representative of the union, to prepare memoranda of their position with respect to the unresolved issues involved in the collective bargaining negotiations.

Mr. Conger, on the part of the Kohler Co., agreed to provide a memorandum of the unresolved issues according to his best judgment, and I believe Mr. Grasskamp, on behalf of the union, also agreed to comply.

Are you gentlemen present this morning? Is Mr. Grasskamp present?

Mr. RAUH. I regret Mr. Grasskamp is over in the room still working on the document. I am terribly sorry about this. I don't know whether it was the weather or what, but I understand that they are still working on it. They did one, and I think they wanted to make a change in it, and this is most embarrassing.

Could you postpone this, sir, for a few minutes?

The CHAIRMAN. The Chair will be very glad to postpone it.

Mr. RAUH. To 2 o'clock or something like that?

The CHAIRMAN. We will postpone it until 2 o'clock.

Mr. RAUH. Thank you very much.

The CHAIRMAN. Maybe you want to further revise yourself.

Mr. CONGER. We are prepared, Mr. Chairman, but I have a couple of exhibits that I was asked to produce yesterday, and I have them here now.

The CHAIRMAN. You have some exhibits. All right, you may be seated, Mr. Conger.

TESTIMONY OF LYMAN C. CONGER (Resumed), ACCOMPANIED BY ELLISON D. SMITH AND WILLIAM F. HOWE, OF WASHINGTON, COUNSEL

The CHAIRMAN. You have some exhibits you were asked to produce yesterday?

Mr. CONGER. Yes; Senator Curtis, I believe it was, asked me to produce exhibits, and I believe at an earlier time, exhibits on what had happened to this clay boat after it left the Sheboygan Harbor.

I am, therefore, submitting the transcript of the 6:30 broadcast, from station WHBL, on Tuesday, July 19, calling attention to it particularly to the first page:

Canadian longshoremen refuse to unload Kohler clay cargoes from the *Fossum*, in Montreal, when they saw CIO advertising the clay was for the strike-bound Kohler Co. In the afternoon Montreal police who have a reputation for being antilabor dispersed the pickets, and the unloading was supposed to have gotten underway. That Kohler clay is still a long, long way from the strike-bound Kohler Co.'s bins, a long way.

The CHAIRMAN. That may be made exhibit 104. Is that the one we agreed might be placed in the record if you found it, the radio broadcast?

Mr. CONGER. I believe so.

The CHAIRMAN. Then that becomes a part of exhibit 102, and will be made exhibit 102 A.

Mr. CONGER. I have another copy of a transcript of a broadcast, union broadcast over WHBL of July 11, 1955, that I would like to submit, and particularly the first page.

"This is Bob Treuer with today's Kohler strike report."

The CHAIRMAN. Does it relate to the same matter?

Mr. CONGER. Yes, sir; the clay boat.

The CHAIRMAN. All right, it will be made exhibit No. 102 B.

Mr. CONGER.

This is Bob Treuer with today's Kohler strike report and some very good news. The *Fossum*, carrying clay for the Kohler Co., has been chased out of Wisconsin waters by the pressure of public opinion and the solidarity of labor.

Then skipping a part:

Kitzman announced that Kohler local 833 will put up a picket line at any and every dock, pier, and port where boats loaded with hot clay for the Kohler pigeons make an attempt to unload their unwanted cargo.

I believe yesterday Senator Curtis asked me to produce, if I could, statements of the union indicating that this strike vote was on the basis that it was just a threat to enforce the hands of the bargaining committee. I have two broadcasts here which I would like to submit as exhibits.

The first one is a CIO radio broadcast of Thursday, March 11, 1954.

The CHAIRMAN. It may be made exhibit 107, and the next one if it relates to the same subject-matter will be made exhibit 107 A.

(Documents referred to were marked "exhibits Nos. 107 and 107 A," respectively, for reference and may be found in the files of the select committee.)

The CHAIRMAN. They will be made exhibits accordingly.

Mr. CONGER. I would like to call particular attention to page 7 of the first exhibit.

I think we have been patient long enough, and I for one am in favor of taking this company on. But a strike vote on Sunday doesn't mean a strike, and our negotiating committee is going to work today and tonight until the last second before a strike deadline to see if we can't iron these issues out. I think that the Kohler Co. is bluffing. They don't want a strike.

Then on page 4 of that same broadcast, the same transcript:

It is unfortunate but it is true that the only language which Kohler Co. apparently understands in labor relations is a threat of force, the strike weapon.

From the second broadcast, I would like to quote from page 2:

This is but one of the reasons why local 833 executive board voted last night to recommend a strike vote. A year ago we failed to make any progress beyond a few gestures until that overwhelming strike vote carried by such a huge percentage. It seems very clear to me that this is what we need to do this year, demonstrate to the Kohler Co. that Kohler workers want the kind of security and working conditions which other American workers have.

Everybody seems to be out of step but the Kohler Co., but there is one language that Kohler Co. understands, and that is the threat of a strike.

The CHAIRMAN. Are there any questions?

Senator CURTIS. I have no questions.

The CHAIRMAN. Thank you very much.

Mr. Brierather, will you come around, please?

The CHAIRMAN. Will you be sworn?

Do you solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BRIERATHER. I do.

TESTIMONY OF LEO J. BRIERATHER, ACCOMPANIED BY HIS COUNSEL, JOSEPH L. RAUH, JR.

The CHAIRMAN. Be seated, and state your name and your place of residence and your business or occupation.

Mr. BRIERATHER. My name is Leo J. Brierather, and I live at 2019 North 32d Street, Sheboygan, Wis., and I am a Kohler striker.

The CHAIRMAN. You are a Kohler striker?

Mr. BRIERATHER. Yes, sir. I am the chief steward in local 833, chief steward of group 1 which represents the foundry group in the Kohler Co.

The CHAIRMAN. Which represents what group?

Mr. BRIERATHER. Group 1, which represents the foundry group in the Kohler Co.

The CHAIRMAN. The foundry workers?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. Of the Kohler Co.?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. You have counsel, Mr. Rauh representing you?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. Let the record so show.

Is there any statement you wish to make before we proceed with interrogation?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. You do not have a prepared statement?

Mr. BRIERATHER. An oral statement, Senator.

The CHAIRMAN. All right, you may proceed with it.

Mr. BRIERATHER. I began working at the Kohler Co. November 14, 1934. I began working in the north foundry, reheater core department. This job was obtained for me by my father who was a Kohler Co. supervisor at the time, and I understand that I was the first new man hired by the Kohler Co. after the 1934 strike.

I had no idea as to the implication of my starting to work in the Kohler Co., despite the fact that workers were on strike at the Kohler Co.

The CHAIRMAN. Would you be called a scab or strikebreaker at that time?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. All right, so you began working for the Kohler Co. under the environment or whatever it is.

Mr. BRIERATHER. That is correct, sir.

I wasn't particularly, and I am not particularly proud of that fact. I worked 1 day on the day shift and for the next 3 years I was on the night shift, what we term the "graveyard" shift, and I was practically out of contact with the rest of the workers.

I worked 1 year in the crate-nailing department after those 3 years and then I was transferred back to the core department, and during the war I worked in the torpedo tube department and the shell departments, and then once again back to the foundry.

So I have had quite a bit of experience in the foundry, and I certainly had enough experience to know that I was a part of the Kohler Co.'s so-called 20 years of labor peace as expressed by Judge Murphy here in these hearings.

I would like to in my own words tell just how the Kohler Co. earned that 20 years of labor peace.

In 1934 an AFL union tried to obtain recognition for its union at Kohler and failed. Their efforts were met by the company with the same attitude, and almost the same attitude as we have been met with in 1954, in that the Kohler Co. would not bargain in good faith, and they went through the pretenses, and they attended the meetings, but as far as trying to give anything for the benefit of the workers, this just was not done.

The AFL union began its strike on July 17, 1934, and the following 9 days were passed by with peaceful picketing of the plant. The Kohler Co. at that time was only working about 2 days a week, and many men were working less. With the beginning of the strike, the Kohler Co. began organizing a police force in the plant, in the village.

They had concentrations of police forces in the American Club, and the recreation club, and in the carpenter shop in the village, and also within the plant.

Now, this sounded very familiar to us in 1954. There was very little show of force on the part of anything until July 26 when the Kohler Co. obtained armored trucks which I understand were de-

livered from Janesville. Company F of the National Guard returned from camp and had its equipment stored within the plant.

Senator CURTIS. Mr. Chairman, what year are you talking about?

Mr. BRIERATHER. 1934, sir.

Senator CURTIS. All right. Were you working there at the time?

Mr. BRIERATHER. No, sir.

Senator CURTIS. How old are you?

Mr. BRIERATHER. I am 42, sir; and I began working at the Kohler Co. when I was 19.

Senator CURTIS. In what year?

Mr. BRIERATHER. November 14, 1934.

Senator CURTIS. You began after the strike?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. Would you say you were hired as a strikebreaker?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. You started as a strikebreaker, and I am talking about in the general acceptation of the term.

Mr. BRIERATHER. Yes, sir; at the time we had the depression and jobs were scarce, and I had been working part time on a farm before, and any job looked good to me at the time. However, I had no idea of what I was doing to the people who were fighting for their benefits at Kohler.

The CHAIRMAN. Since you have gotten in, you have been converted?

Mr. BRIERATHER. Very definitely, sir.

The CHAIRMAN. All right; proceed.

Mr. BRIERATHER. On July 26, the village deputies appeared in force and they made a pretense or they actually did clean out what they called cleaning out the picket line and they confiscated clubs and they confiscated a lean-to which was erected by the pickets to provide some shade from the sun, and also provide protection from the rain.

In their own terms, they claimed they flushed out the field of pickets on the east end of the plant, and after this had been done they continued to patrol the picket lines and there was much exchange of words between the pickets and the deputies.

On July 27 a statement was issued by officials of the village which was heard over the air, and in the papers telling people to stay away from the Kohler Village, that the situation was tense.

Senator CURTIS. Now, what year are you talking about now?

Mr. BRIERATHER. Still 1934, July 27; sir.

This had just exactly the opposite effect of what it was meant for, or seemed to mean, and in fact everybody was interested to see what was going on, and instead of people staying away they all came to see what was happening.

In the afternoon there was quite a display of eviction of 2 strikers from the American Club, which was similar to what happened in 1954. However, this was done much more physically and there was a much greater show of physical force in evicting them, and they had their luggage thrown out on the sidewalk and there were a lot of words exchanged and people that were there became angry at the type of treatment being issued by people from the Kohler Co.

In other words, it might seem to anyone that this entire thing was stage-managed by the Kohler Co.

The armored trucks paraded through the streets practically all day, until approximately 4 o'clock in the afternoon, as I understand it, when practically all of law enforcement officials disappeared from the village, despite the fact that the village was filling up with people. At 8 o'clock in the evening, approximately, there were reports of from 5,000 to 10,000 people in that village.

The stone throwing to break the windows in the plant began at the south end of the plant. Eyewitnesses there said it was started by children who at first had been throwing——

Senator CURTIS. I would like to ask the witness a question. You have used the expressions such as "eyewitnesses said," and "I understand," and so on. Where were you during the month of July 1934.

Mr. BRIERATHER. I was working on a farm at the Holstein, which is about 20 miles away from Kohler.

Senator CURTIS. About 20 miles away?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. What is the name of the farm, or the farmer?

Mr. BRIERATHER. I believe it was a farmer by the name of Arthur Weber.

Senator CURTIS. When did you start to work for him?

Mr. BRIERATHER. For Mr. Weber, sir?

Senator CURTIS. Yes.

Mr. BRIERATHER. Oh, I only worked on his farm probably about a month to help with the harvest.

Senator CURTIS. When did you start to work for him?

Mr. BRIERATHER. It could have been the end of June, of 1934, or the beginning of July.

Senator CURTIS. And so you were out there all during the month of July?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. These things that you have described, they happened in July?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. You base your information upon conversations since then, and printed accounts, and that sort of thing?

Mr. BRIERATHER. Yes, sir. I obtained this information as a result of just plain curiosity, sir. When the UAW began organizing the Kohler plant, and the Kohler Co. in its campaign against the UAW, mentioned the word that it was possible to strike, that the UAW was a strike-happy union, the people in the plant when they heard the word "strike" naturally started talking about the 1934 strike, and they were fearful.

In the 1934 strike, it represented to those people the same thing that it represented to me, without actually having been there, that people were shot and they were injured, and there was a riot, and two people were killed, and naturally we were fearful of anything like that ever happening again.

(At this point, the following members were present: Senators McClellan, Curtis and Goldwater.)

The Kohler Co. at times has given its version of the 1934 strike and I was anxious to find out just what did happen on that day.

As a result, not only myself but a number of people started talking to individuals who were inside the plant that day, who were outside

as spectators, who were members of the sheriff's deputies, who were people on the picket line, and who were actually members of the village police.

I doubt that any one individual could tell the entire story of the 1934 strike, because there were so many, many people involved.

The estimates were from 5,000 to 10,000 people. Things were happening all over. Any one individual can only tell us just exactly what happened in his own immediate area. And unless you talk to hundreds of people you don't begin to see what the relationship was between the different happenings of that day.

I have talked to many people in conjunction with 2 and 3 other people, and we have tried to recapitulate the accounts and the happenings of July 27, 1934. That is why I am in a position to tell this story, sir.

I have some affidavits here, which I don't believe I would read, but they are in support of my argument. I would like to read certain parts of them as I get through them and submit them for any further information you would desire to get from them, sir.

THE CHAIRMAN. What is the subject matter of the affidavits?

MR. BRIERATHER. Well, I have some on the 1934 Kohler strike, eye witness accounts of their own individual experience of that date, sir.

THE CHAIRMAN. We usually accept affidavits only to contradict something that may have been said and testified to here at these hearings. The Chair will permit you to file those affidavits. Since we are permitting you to testify largely from hearsay up to this time, I will let you state what the affidavits which you have may state. But putting the whole affidavits in I have some doubt about.

MR. RAUH. Mr. Chairman, I am not appealing for that. I would like to explain how Mr. Brierather's testimony came about, if I may, for a moment. I went to Mr. Kennedy and asked him if we could have a day to put on our side of this, by bringing in a lot of people. Mr. Kennedy indicated to me that the committee was trying to do this as expeditiously as possible and asked our cooperation in not doing that, and suggested possibly a witness could pull it together. That is how Mr. Brierather's idea of pulling this together came about, sir.

THE CHAIRMAN. I can appreciate that. The Chair is very anxious to be a little liberal and generous in stretching the rules of testimony, if we can get facts even from hearsay without having to go to the expense of bringing so many witnesses here.

I just don't like the idea of saying, "Yes, file your affidavits," until we have had a chance to see them.

Anything that you wish to state and then say you have an affidavit from somebody saying this is the fact, the Chair will permit you to say it. But the affidavits I will not accept until the staff has had an opportunity to examine them. I think I am right in that position.

All right. You may proceed.

MR. BRIERATHER. I believe I left off with the beginning of the stone throwing on the south end of the plant. When this began, many people started taking up this activity and this continued until just about every window in the south foundry and the employment office and all the way down the street had been broken.

THE CHAIRMAN. Are you saying that the children broke the windows?

Mr. BRIERATHER. As I understand it, sir, they started the stone throwing.

The CHAIRMAN. You understand, then, the import of what you are saying is that the first window is broken by some child who threw a rock?

Mr. BRIERATHER. There were many children in that area.

The CHAIRMAN. What?

Mr. BRIERATHER. There were many children in that area.

The CHAIRMAN. It wouldn't take many children to throw one rock. You think it all started by one child throwing a rock, is that right?

Mr. BRIERATHER. That is right.

The CHAIRMAN. There may have been other children joining in, but at that time you thought it was by one child throwing a rock.

Mr. BRIERATHER. At that time, they had streetcar tracks going by one side, and the people in that area started to dig up stones which were used as ballast and the bricks from that place, and that is where most of the ammunition that they got, I understand, came from.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. When was this stone throwing that you are talking about?

Mr. BRIERATHER. Approximately at dusk, as close as we can determine. It was about 8 o'clock in the evening, sir.

Senator CURTIS. What date?

Mr. BRIERATHER. July 27, 1934.

Senator CURTIS. That is while you were working out on the farm 20 miles from there?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Mr. Chairman, in the history of this committee I have never objected to anybody who wanted to come in here and testify. I haven't objected to any witness. But I do wish the witness, as he talks about these things, would constantly make clear in the record when he is talking about, and where he gets the information.

Mr. BRIERATHER. All right, sir.

The CHAIRMAN. I thought he had identified it as the day that the windows and so forth were broken out in the plant in 1934, and he said it started about dusk, as I remember, or just about dark that afternoon.

Be as specific as you can. A lot of your testimony is absolutely hearsay. It can be weighed accordingly. Each Senator can give such credence to it as he thinks it merits. But, of course, a lot of your testimony up to now, certainly, is hearsay. You say you have affidavits supporting it, and I am going to permit you to file the affidavits for the inspection of the committee and analysis of them, and so forth, by the staff, in their examination.

But I am trying to expedite it now and let you get your story across. I think you want to get to something else, ultimately, don't you?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. And what you actually know yourself?

Mr. BRIERATHER. Yes, sir.

Mr. KENNEDY. Could I suggest that you maybe might summarize what happened in 1934 and get on to what you know personally?

The CHAIRMAN. Let's try to get on to what you know yourself.

Senator Goldwater?

Senator GOLDWATER. Mr. Chairman, may I make a suggestion? I think the union is perfectly right in asking that their side of the 1934 strike be presented. I suggest, therefore, that we let the union obtain a man who was actually at the strike and participated—either participated in or witnessed it. All of this is hearsay. It can be given by anybody who has read newspaper accounts of the episode. I think it would be much better, and I think the union counsel would agree it would be better, if he were allowed to bring a man down here who was an actual eyewitness to the occasion.

The CHAIRMAN. It is something like what this witness said. If you are going to get a picture of it, you are either going to take hearsay or you are going to bring many witnesses. One would be at one place and one would be at another and would see different things.

The Chair is trying to expedite it. I don't want to deny the union its right to present its viewpoint and its side of the case.

Senator GOLDWATER. I don't want to prevent them, either.

The CHAIRMAN. Let's move along now starting with what you know, beginning with what you know, and submit your affidavits, let the staff examine them, and then if we need to we can come back to some of this.

Mr. BRIERATHER. My only purpose in telling about this, sir, is that the committee may have the benefit of knowing just what was in the minds of the Kohler workers during the 20 years of labor peace, and also what was in their minds even when they voted to strike in 1953 and 1954, sir.

The CHAIRMAN. Well, you began working there in November 1934.

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. From that time on, I think you would be a very competent witness to testify as to what happened up until the time the strike was called in 1954. Is that right?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. You worked there all that time?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. Then you may testify fully about that.

(The witness conferred with his counsel.)

Mr. RAUH. Mr. Brierather just asked me if that was a direction to go on and leave the strike.

The CHAIRMAN. How much more have you got of this?

Mr. BRIERATHER. I can summarize this quickly.

Mr. RAUH. Could he have about 2 or 3 minutes?

The CHAIRMAN. All right.

Mr. BRIERATHER. I have made the claim that this was more or less staged or managed by the Kohler Co. I have the affidavit from John J. Stieber, who is presently the financial secretary of UAW local 833, and who at that time had acted as temporary chairman of the independent union, KWA.

The CHAIRMAN. What is the date of the affidavit?

Mr. BRIERATHER. The affidavit's date is March 10, 1958.

The CHAIRMAN. That affidavit may be filed for inspection. We will rule later whether it may be made an exhibit.

Mr. BRIERATHER. I would like to tell the substance of the affidavit. Mr. Stieber was in the company of Mr. Walter J. Kohler, Sr., the president of the Kohler Co., just prior to the stone throwing at the

Kohler Co. plant. He had walked from the south foundry lunch-room to an area in the immediate vicinity where the stone throwing began. It seemed to Mr. Stieber as though Mr. Kohler was expecting what was about to happen. Quoting from the affidavit, Mr. Stieber says that in his opinion, "Mr. Kohler was waiting expectantly for something to happen in that area, because when the first windows were broken, Mr. Kohler stated 'Now, here it comes.'"

The CHAIRMAN. It seems to me from that affidavit, from that statement, you are clearly confirming the company's position that they had every reason to be afraid that mob violence was going to take place.

Mr. BRIERATHIER. With that amount of people, I imagine that you are right. But I mentioned before that law-enforcement officials were notably absent during the time that the mob was collecting, sir.

The CHAIRMAN. All right; go ahead.

Mr. BRIERATHIER. I have another affidavit from John Stieber, who reported as the crowd moved north, that tear gas was hurled from the plant. The affidavit was signed March 10, 1958, an affidavit from Mr. John Stieber.

The CHAIRMAN. That tear gas was thrown from within the plant?

Mr. BRIERATHIER. From within the plant, from the immediate vicinity of the employment office.

The CHAIRMAN. I think that has been admitted by the company.

Mr. BRIERATHIER. He has told me that the Kohler Co. supervisors who are presently supervisors, Mr. Joe Herwatin and Marty Ertel were the persons he had seen throw it.

The CHAIRMAN. That affidavit may be filed.

Senator CURTIS. I would like to ask you about the first affidavit that relates to a conversation with Mr. Kohler. When was the conversation?

Mr. BRIERATHIER. Approximately 8 o'clock, July 27, 1934.

The CHAIRMAN. Have you any more like this you want to file?

Mr. BRIERATHIER. Yes. I have another affidavit by John Deis, made out on March 12, 1958.

John Deis was an eye witness in the Kohler riot. I would like to quote from that affidavit that across the road, and this was while this thing was actively going on—

On the sidewalk in front of the American Club he saw a group of four deputies carrying guns; that he recognized them as Ed Bieber, Lyman Conger, William Runge, and John Raml; that these four shouted over for the pickets to get out, and followed along on the sidewalk as the pickets headed north across the street; that as they passed the Brass Road, which is the road leading out from the brass foundry building from the Kohler plant, Deis heard a single shot and a woman scream something about "They shot Engelmann"; that he thinks the shot came from the direction of the group of four deputies that Bieber was in; that it was dark and he could not make them out clearly in the confusion; that he had first seen the Bieber group near the water bubbler in front of the American Club; that when he was out on High Street, near Badura's shoe store, he was once again confronted by the same four deputies; that he says one of the four shouted at them "What for you want to murder somebody"; that there was an exchange of words, and then he states that he pulled off his coat, rolled up his sleeves, and shouted at them "You guys, when you want to fight, come out and fight with your bare hands"; that one of the four deputies, he does not know which one, shouted back, "You wait" (unprintable) "We'll show you something"; that he went down to pick up his coat and received shotgun blasts in his head and leg; that some 45 to 50 pellets were later dug out of his head and legs; that his work cap was shot to pieces and that he was taken to the clinic; that he says he is positive that he was shot by the four deputies, Bieber, Conger,

Runge, and Raml, and that he caught sight of them shooting him as he bent over for his coat, but could not say which ones, or whether all four, were shooting at him, except that they did shoot him.

Senator CURTIS. What is that man's name?

Mr. BRIERATHER. John Deis.

Senator CURTIS. Where does he live?

Mr. BRIERATHER. 1429 Erie Avenue, Sheboygan, Wis.

Senator CURTIS. Does he live there now?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. That affidavit may be filed like the others.

Do you know whether he ever swore out a warrant for these men and had them arrested for shooting him?

Mr. BRIERATHER. I don't know, sir.

The CHAIRMAN. If his affidavit is correct, that is, if he actually saw them shoot at him, and he got hit, I can't understand why he wouldn't go and have them arrested.

Mr. BRIERATHER. Sir, I assume that under oath and affidavit that this would be the truth, and I would like to point out that this contradicts Mr. Biever's testimony of the other day, and Mr. Conger.

Senator CURTIS. What I would like to ask is this: Who are those four men he said shot him?

Mr. BRIERATHER. Mr. Biever, Mr. Conger, Mr. Raml, and Mr. Runge.

Senator CURTIS. Mr. Biever and Mr. Conger have testified here.

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. The other two men haven't?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Have all four of them testified?

Mr. BRIERATHER. No, sir; Just Mr. Biever and Mr. Conger.

Senator CURTIS. And you have a witness that will testify that he was shot by two of the witnesses who appeared here?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Wouldn't you think that you ought to do something about it than just have his affidavit?

(The witness conferred with his counsel.)

Mr. BRIERATHER. Well, sir, it is up to Mr. Deis or members of this committee, I would say, sir.

The CHAIRMAN. This committee can't prosecute anyone. It is up to Mr. Deis. He is the fellow that got shot.

Mr. BRIERATHER. Well, ordinarily, sir, working people are not apt to process lawsuits. They would much sooner have decent working conditions and live a peaceful life, sir.

The CHAIRMAN. But I think he should prosecute. I think if he was shot out there, and he knows who shot him, who is responsible for it, it is a violation of law to shoot people, I think the law should be enforced.

I don't know whether the statute of limitations has run or not, but if it hasn't, certainly there is still some responsibility upon him. He may have let the statute of limitations run in taking no action.

Of course, there are always some extenuating circumstances that have to be taken into account, but on the face of it you would think he should appeal to the law-enforcement officers whose duty it was to prosecute people for such offenses.

Mr. RAUH. Sir, the law enforcement, if I may point out, were the very people who did the shooting. They were the law-enforcement officers at that time. Conger and Biever were the deputies, so it is a little hard to appeal to them. I don't say he should or shouldn't have taken any action, but it is a little hard to appeal to these men.

Senator CURTIS. Mr. Chairman, Mr. Rauh said the people who did the shooting. What evidence do you have to that?

Mr. RAUH. The Deis affidavit that was just read.

Senator CURTIS. Mr. Deis ought to be brought in. I am willing to be just as liberal as we can go to get this full story in here, but when it reaches the point that witnesses who have appeared here are accused of shooting other human beings, I think it is just so elementary in our system of justice that the accuser come in here and fails to face the committee and state his case and answer a few questions.

I just can't believe the witness here is reciting all of these things from memory. It is my understanding that if anyone wants to come in here and read a paper, they should submit it ahead of time. I haven't seen any statement of this witness.

The CHAIRMAN. The witness did not submit a statement. The witness is presumably making an oral statement by referring to some notes which he has, which is quite proper. The Chair would hold that he would have a right to do that.

I at one time tried to observe whether he was actually reading a prepared statement or whether he was actually referring to notes to refresh his memory.

The Chair is not the keenest observer that may be around, but I have watched witnesses testify many times. I observed the witness to determine whether he was actually reading a prepared statement or simply referring to notes.

I detected he was referring to notes, according to my judgment.

Mr. RAUH. Sir, we have the notes and I am sending them up, so we can show them.

The CHAIRMAN. All right.

(Document handed to the committee.)

Senator CURTIS. Mr. Chairman, in light of the fact our our liberality, and I agree with it, permitting this witness to go ahead, he has made a charge of shooting another human being by affidavit, Mr. Rauh has testified similarly, I think in view of that, before we go on to any other point, we take a moment or two to permit any of the witnesses referred to that are in the hearing room to make a statement at this time.

The CHAIRMAN. To do what, Senator?

Senator CURTIS. I think Mr. Conger and Mr. Biever—I see Mr. Conger, I don't know if Mr. Biever is here—ought to be permitted to make a statement at this time.

The CHAIRMAN. Just a moment. I think as soon as this witness has finished this part of his preliminary, it would be proper, but I don't think we ought to interrupt him just the minute he says something. If they will stand by, as soon as this witness finishes his preliminary, they will be given the opportunity. I think that is the proper way.

Senator GOLDWATER. Mr. Chairman, I would like to ask the witness in connection with his recent testimony this question: Would

you read that part of your last affidavit that contained the names of the people who allegedly shot another person?

Mr. BRIERATHER. I gave that affidavit in.

Senator CURTIS. The names that he mentioned are Ed Biever, Lyman Conger, William Runge, and John Raml:

That these 4 shouted over for the pickets to get out and followed along the sidewalk as the pickets headed north across the street; that as they passed the Brass Road, he heard a single shot and a woman screamed something about they shot Englemann; that he thinks the shot came from the direction of the group of 4 deputies that Biever was in.

Then further down in this affidavit of John Deis, I quote from it:

That he says he is positive that he was shot by the 4 deputies, Biever, Conger, Runge, and Raml, and he caught sight of them shooting him as he bent over for his coat but could not say which ones or whether all 4 were shooting him, except that they did shoot him.

Mr. Chairman, I want to join Senator Curtis in demanding that these men who have been accused of shooting another person be allowed to testify to that effect when this witness has finished with this particular phase of his testimony.

Mr. RAUH. I think he has finished, sir.

The CHAIRMAN. The Chair will say I don't think a demand was necessary. The Chair had already ruled that he would immediately, when this witness has finished this part of his testimony. I asked the witnesses to stand by. I hope that since the Chair ruled, you will not feel it necessary to make a demand on him.

(At this point, Senator Mundt entered the hearing room.)

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. I would like to ask the witness: Is this document that you passed up here, consisting of six pages, the notes from which you were speaking?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Who prepared them?

Mr. BRIERATHER. I did, sir.

Senator CURTIS. Did you do the typing?

Mr. BRIERATHER. No, sir. I wrote it out in longhand and I had a typist type it.

Senator CURTIS. Who typed it?

Mr. BRIERATHER. Mrs. Esther Prothro.

Senator CURTIS. Where does she work?

Mr. BRIERATHER. She works for the UAW, sir.

Senator CURTIS. Whereabouts?

Mr. BRIERATHER. Well, she works in the international union office, sir.

Senator CURTIS. Here in Washington?

Mr. BRIERATHER. She is here, sir; yes.

Senator CURTIS. Where were you when you wrote out your notes in longhand?

Mr. BRIERATHER. I was in several places. Mainly in the bedroom, sir.

Senator CURTIS. You wrote them out after you got to Washington?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Was anybody around while you were writing them out?

Mr. BRIERATHIER. Yes, sir.

Senator CURTIS. Whom did you confer with while you wrote out your notes?

Mr. BRIERATHIER. With many people, sir. With Allan Graskamp, for instance, who is president of our local union; with Mr. H. Kohl-hagen, Edward Kohl-hagen, who is recording secretary of our union; with Mr. Arthur Baur who is vice president of our local union; with Mr. Rand.

Senator CURTIS. But you wrote this out in full in longhand just like this?

Mr. BRIERATHIER. Yes, sir.

Senator CURTIS. Is this your writing here in ink?

Mr. BRIERATHIER. Yes, sir.

Senator CURTIS. I think, Mr. Chairman, it is pretty much of a prepared statement. I submit that to the chairman for his consideration.

The CHAIRMAN. Let's see it a moment.

(The witness conferred with his counsel.)

The CHAIRMAN. Well, the Chair rules it is halfway in between. I think it should have been submitted. It is a little more than just notes. I am going to permit the witness to proceed to testify unless there is objection. I think a statement as full as this one—and I had seen you referring to what looked like notes—I think a statement possibly as full as this one should have been submitted. But I will let you proceed, unless there is objection.

(The witness conferred with his counsel.)

Mr. BRIERATHIER. Sir, I am finished with the part about the 1934 Kohler strike. I would like to point out that it was not my intention to make accusations, sir. I was trying to tell the committee what was in the minds of the workers during the 20-year period and also in the minds of the people working out at Kohler at the time that they took the strike vote in 1953 and in 1954, and subsequently when they went out on strike.

The CHAIRMAN. In other words, you have made no accusation. You are simply reporting to the committee the result of the investigation which you made, which you said was largely out of curiosity to find out just what the state of mind of the people was, and what might throw some light on this 20 years of peace, labor peace?

Mr. BRIERATHIER. That is correct, sir.

The CHAIRMAN. And this information that you have submitted is the background for the conclusions you reached?

Mr. BRIERATHIER. Yes, sir.

The CHAIRMAN. Is that the way you mean it?

Mr. BRIERATHIER. Yes, sir. I might point out that the Kohler Co. may have been cleared in the courts of that day, but I also would like to point out that they were not cleared in the court of public opinion, sir.

The CHAIRMAN. Well, that is, again, a matter of opinion. May I say this: The affidavit with respect to the charge of Mr. Conger, Mr. Biever, and the other two men shooting this man, is a charge made by the man who made the affidavit, who claims he got shot, and not a charge made by you.

Mr. BRIERATHIER. That is correct, sir.

The CHAIRMAN. All right. Now the record is straight.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

(At this point, Senator Ervin entered the hearing room.)

Senator CURTIS. Do you affirm or deny the charge?

Mr. BRIERATHER. I would affirm it, sir.

Senator CURTIS. Then you do make the charge. You come in here and you give hearsay evidence. You bring in the sworn statement of a man. Let's just look at this man Deis, and notice the words he used here—

That as they passed the Brass Road, Deis heard a single shot and a woman screamed something about "They shot Englemann."

that he thinks the shot came from the direction of the group of the four deputies that Biever was in; that it was dark; that he could not make them out clearly in the confusion; that he had first seen the Biever group near the water bubbler in front of the American Club; that when he was on High Street, near Badura's shoestore, he was once again confronted by the same 4 deputies; that he says 1 of the 4 shouted at them—

What for you to want to murder somebody?

that there was an exchange of words, and then he states that he pulled off his coat, rolled up his sleeves and shouted at them—

You guys, when you want to fight, come out here and fight with your bare hands—

that 1 of the 4 deputies, he does not know which one, shouted back—

You wait—

and then something unprintable—

We'll show you something—

that he bent down to pick up his coat and received shotgun blasts in his head and legs; that some 45 to 50 pellets were later dug out of his head and legs; that his work cap was shot to pieces and he was taken to the clinic.

In presenting this affidavit, is it your intention to tell the committee that these 4 men, 2 of whom were Mr. Biever and Mr. Conger, shot Mr. Deis.

Mr. BRIERATHER. Well, sir, I believe Mr. Deis is telling the truth. He made this affidavit under oath.

Senator CURTIS. And you believe him?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. And you presented it here to the committee so that they might have the information that you believe?

Mr. BRIERATHER. That is correct, sir.

Senator CURTIS. I submit that that is a rather serious matter. I cannot pass on the truth or falsity of it.

But it is quite a departure from—

The CHAIRMAN. Excuse me, Senator. May I ask the union counsel whether this witness who gave the affidavit can be produced here?

Mr. RAUH. Just one moment, sir.

(The witness conferred with his counsel.)

Mr. RAUH. He said sure. I just don't know myself. But Mr. Brierather says sure, and we would be happy to produce any witness

the committee asks. I am sure Mr. Kennedy will confirm that we have produced everybody who has been mentioned.

The CHAIRMAN. Have him come in at the earliest date and we will get this thing settled. Move on to something else.

Senator CURTIS. I think at this time, at this stage of the hearing, while the same people have heard and watched the witness' statement, that Mr. Conger should be heard.

Mr. RAUH. Mr. Chairman, I am informed that Mr. Deis is not a member of our union. Possibly it would be best for Mr. Kennedy to have him subpoenaed. But we will tell him so he is alerted.

The CHAIRMAN. He is not a member of the union?

Mr. RAUH. No, sir.

The CHAIRMAN. I thought he was.

Mr. RAUH. I am sorry, sir. I did, too.

The CHAIRMAN. It is my error. I just assumed he was. Anyway, we will give further consideration to a subpoena for him if the committee feels he should be subpoenaed. We can take that action.

All right.

Is there anything further, now, about the 1934 strike?

Mr. BRIERATHER. No, sir.

The CHAIRMAN. You have concluded with your remarks about that?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. I understand now you want to start after the 1934 strike and talk about conditions that obtained in the plant up until the 1954 strike came on?

Mr. BRIERATHER. That is correct, sir.

The CHAIRMAN. All right. Stand aside for a moment.

Mr. Conger, you can make a statement there, if you want to, briefly.

**TESTIMONY OF LYMAN C. CONGER—Resumed; ACCOMPANIED BY
ELLISON D. SMITH AND WILLIAM F. HOWE, COUNSEL**

Mr. CONGER. Mr. Chairman, I want to make this statement under oath: That the affidavit read by Mr. John Deis here is a complete and utter fabrication, and if it is made under oath and submitted to this committee, it is perjury. I will make that statement under oath. I was not outside of the limits of the plant that night. I was not on the American Club lawn or in the streets at any time carrying a gun. Mr. Biever, I am assured—I am sorry that Mr. Biever has left, but we will get him back if it is necessary—he will testify as he did before, that he was not carrying any gun that night other than a gas gun, and that he didn't shoot anybody.

At the conclusion of my testimony the other day, Mr. Rauh made the threat through newsmen that if I would repeat my testimony outside of this committee, he would have me sued for libel. I promptly repeated that. And I don't think I am going to be sued for libel, according to what I read in the newspapers.

The CHAIRMAN. That will be a matter for the courts to handle.

Mr. CONGER. But I will now say that if anybody will make the statement that I was carrying a gun, doing any shooting that night or shot anybody outside of this committee room, I will sue him for libel, and I wouldn't back down on the threat.

Senator MUNDT. Mr. Chairman? I would like to find out from Mr. Conger one thing. If I understood you correctly, you said Mr. Rauh—was it?

Mr. CONGER. Yes.

Senator MUNDT. Challenged you to make a statement outside the committee room or inside the committee room to the press, on which he was going to sue you for libel. I didn't get it. Maybe you said it, or maybe I didn't hear it. What statement were you referring to that you promptly made and challenged him to sue you on?

Mr. CONGER. That was the statement that Mr. Burkhardt's attitude at the bargaining table was that of a confirmed Communist, and I repeated that to the press immediately.

Senator MUNDT. Very well. I have had a little experience in a committee room about challenges about libel. I remember one time when Mr. Alger Hiss challenged Whitaker Chambers to make a statement on which he was going to sue him for libel. Mr. Chambers made it outside of the committee room, outside of the area of immunity. A long time elapsed before Mr. Hiss sued him for libel. Finally our committee succeeded in getting enough people to comment about it, and needled him enough so he was forced to sue for libel. He sued for libel and went to jail for perjury. I am always curious, consequently, out of that experience, when I find this kind of exchange.

I favor as many of our witnesses as possible making statements out where they can be sued for libel, and I favor getting it into the courts, because the courts can adjudicate these things with much more emphasis and much more effectiveness than we are able to do here in our committee room.

I don't wish you trouble, but if Mr. Rauh made the challenge, I hope he goes through and sues you and gets the thing in court.

Senator CURTIS. He challenged you, too; you might get sued, because Mr. Rauh seems to be in the habit of intimidating witnesses and members of the committee by throwing challenges around.

Senator MUNDT. He challenged me after I challenged him to sue the Detroit paper for the editorial. I am waiting for him to instigate that suit. I have been reading the papers carefully. I haven't seen that the UAW has as yet brought suit against the Detroit newspapers. If he makes good on that, then I will give serious consideration to his challenge to me.

The CHAIRMAN. The Chair announces that he is not challenging anyone. I am just hoping that we can proceed.

Senator ERVIN. Mr. Chairman, I would challenge the committee to proceed to conduct this hearing in a judicial manner and salt down the testimony, and let our speeches keep until after the testimony is salted down.

Mr. CONGER. I would be heartily in accord with that, but there have been some speeches made here, some very serious allegations against the Kohler Co., and individuals, made entirely on hearsay, second, third, and fourth hand. There has not been a witness that dared appear here and give that testimony under his own oath so far. It has all been, "I heard from this one," "I heard from that one," or "I think it might be so."

I think I have a right to demand and now request that now that we have been given the names of these two individuals, that they be

produced here at the committee, that they testify under oath, and that I have a chance to come up and testify to the contrary, and then let's see who is perjuring themselves.

Senator CURTIS. I would like to ask the witness a question.

The CHAIRMAN. The Senator from Kansas is recognized.

Senator CURTIS. Well, now that——

The CHAIRMAN. Nebraska, I am sorry.

Senator CURTIS. My fondness for the chairman certainly allows me to overlook that. Mr. Conger, how did you receive this statement from Mr. Rauh, by word of mouth or by writing?

Mr. CONGER. No. I received it by newspaper reporters asking me about it. They came to me and said he had made the statement that if I would repeat what I had said in this committee room outside of the committee room I would be sued for libel, and I gave them an accurate report of what I testified here, and told them that I would repeat it outside this committee room; then I understand from the papers that Mr. Rauh announced he was not going to sue.

Senator CURTIS. Did all of that happen here in the hearing room?

Mr. CONGER. No, sir; it happened outside the doors of the hearing room.

Senator CURTIS. That is all I have.

The CHAIRMAN. Gentlemen, the Chair will state I don't believe this committee has any great interest in who sues whom for libel. That is a matter that might be of interest to attorneys who expect prospective employment and of interest to the individuals who might hope to recover. So let's get down to the issue. There is an affidavit here that has not been received in evidence from a man who charges that you, Mr. Biever, and two other men, shot the man who made the affidavit. What is his name?

Mr. CONGER. Mr. Deis is the correct pronunciation, Deis.

The CHAIRMAN. You testify that you didn't?

Mr. CONGER. Yes.

The CHAIRMAN. That as far as you are concerned, as against you, it is false?

Mr. CONGER. Yes, and I would like to add some more. I may later.

(Members of the committee present at this point were: Senators McClellan, Ervin, Goldwater, Mundt, and Curtis.)

The CHAIRMAN. And so far as you know, you believe you can testify that as against Mr. Biever it is false?

Mr. CONGER. Yes. I have heard Mr. Biever testify, and on the basis of his testimony——

The CHAIRMAN. You were with him that night?

Mr. CONGER. I was not with him that night. I was not in the presence of Mr. Biever, or Mr. Runge, or Mr. Raml at all that night.

The CHAIRMAN. He would have to answer for himself then. As to the other 2, you do not know, or as to the other 3 you do not know of your own knowledge, and you just know that you yourself didn't?

Mr. CONGER. I have considerable more information than Mr. Biever had on it because I have heard Mr. Biever testify in this hearing room that he didn't fire any shot.

The CHAIRMAN. I have heard him testify, too, but I don't have any personal knowledge, and I have his word, and you have his word.

You were not with the other three, that is the point I am trying

to make, and therefore you cannot testify from your personal observation from being present as to what occurred.

Mr. CONGER. I was not with the other 3 and I would request that the 1 who is living of the other 3 be called, Mr. Runge. I am quite sure, and I cannot testify positively under oath, but to the best of my information and belief both Mr. Runge and Mr. Raml were in the plant that night, and did not go outside.

Now, I can't testify to that positively, but that is the best of my information. Mr. Raml unfortunately is dead, but I think Mr. Runge is still living, and I believe he can be called as a witness, and I believe he would want to answer that charge.

The CHAIRMAN. All right, the Chair has let the affidavit be filed, just for the information of the committee. I have not permitted it to be made an exhibit, or to go into the record as of yet.

I think this is a matter the committee will want to discuss and try to resolve what procedure to follow on it. I am not attempting to rule on it at this moment.

Senator MUNDT. I think that we should have in the record at this point the fact that Mr. Biever did testify on this point. In the course of some 11 questions that I asked Mr. Biever, I asked some questions about whether he was carrying firearms, and he said that the only gun he carried was a tear gas gun, and he said that under oath.

He also said, under oath, that these people with whom he was walking that night, one of them fired a shot at his request but that he shot into a railroad bank, where none of those shots could hit. I thought we ought to have that much of the sworn testimony recalled at that point.

Senator ERVIN. I believe, Mr. Conger, you stated that while you were not with Mr. Biever all of the time on that particular day, that the times you saw him, the only weapon he had was a gas gun, or a tear gas gun?

Mr. CONGER. No. As a matter of fact, I never saw Biever at all that evening. I may have seen him out the window in the afternoon of the day, during the time when it was daylight. I don't remember that I did, but that is possible. But I did not see Mr. Biever at all that evening.

Senator ERVIN. I didn't know whether I understood, or whether it was referred to that particular day, but did I understand you to say that the only time you ever saw Mr. Biever armed with anything was a gas gun?

Mr. CONGER. No, I was summarizing his testimony on that.

Senator ERVIN. Excuse me, then.

Mr. CONGER. I was not stating that of my own knowledge. I was stating what he had said in this committee room.

The CHAIRMAN. Are there any further questions of this witness?

Mr. CONGER. I have a couple of other things I would like to add, if I may, Senator.

The CHAIRMAN. You may, if it relates to the present subject matter.

Mr. CONGER. It relates to this. I have to rely a little on my memory on this, but if my memory serves me correctly, Mr. John Deis was one of the plaintiffs in the suit brought against the Kohler Co. and Mr. Biever, and I think the record will show that he was.

I think, also, his testimony appears in the coroner's inquest and it is a little strange to me that if Lyman Conger was one of the ones that shot him that night or participated in it, Lyman Conger wasn't joined as a defendant in that action, and still stranger that it was dropped as soon as it was forced to trial.

I also believe, and again this is in the possession of the committee, I believe Mr. Deis testified at the coroner's inquest, and as I recall, I don't think his testimony is anything like this affidavit here.

I also want to make the statement that in this courtroom there is a witness, or in this hearing room, who can testify and corroborate my testimony that I was not out of the plant that evening.

I suggest that perhaps he might be called. Then I would like to make one general statement on this whole thing: I think the 1934 strike and those acts have absolutely nothing to do with the 1954 strike, or any issue that is before this committee.

I just can't understand this theory that we say, "Well, we thought so and so was trigger happy, so we took a mob up on to his lawn because we were afraid of being shot."

I think if I thought my neighbor was trigger happy, and I want on to his lawn or near his premises, I would be pretty circumspect to see that my conduct justified and was completely in accordance with the law so that I wouldn't give him any excuse for teeing off on me.

I would suggest that Mr. Chase be called to corroborate my testimony, and I would ask that Mr. Runge be called, and I will arrange for that myself. I will see if he can be gotten here.

The CHAIRMAN. We will set aside an hour some day to finish this up. We will get the witnesses lined up, and I don't think it is important, and I don't think it is very relevant or pertinent to what this committee is trying to do now.

But a charge has been made here and someone is not telling the truth to the committee as the record stands now. You have nothing but an affidavit here that I have not admitted as evidence, but I think the committee should consider how it would pursue this matter, and I don't want to spend all morning here with just part of the witnesses present.

If we are going into it, let us set a time and get the witnesses here and actually thresh it out.

Senator CURTIS. Mr. Chairman, this is certainly not in criticism of what the Chair has stated, but I want to make the record very clear that I think when we are as liberal with witnesses as we are and let them relate what they want to relate and bring in affidavits, certainly they are taking advantage of the committee when they bring in by an affidavit where the affiant says, "I think," instead of what he knows but makes a public charge at a time that these hearings are being televised with the knowledge and consent of the committee.

He makes a charge that implies that two men who have appeared before this committee shot him. Now, I just believe that that is taking advantage of the committee to resort to that sort of a publicity stunt.

I think that if they believe those facts are true, that Mr. Deis should be here in the first instance.

Senator ERVIN. Mr. Chairman, I would like to say I agree with Senator Curtis on Mr. Deis. and I think we ought to bring him before

the committee as a witness so we can see him and observe his demeanor, because I do think it is a serious thing to make a charge of this nature.

The CHAIRMAN. Gentlemen, the Chair cannot produce Mr. Deis this morning. That is why I have indicated I would like to set a time and get them all here and thresh it out.

Senator GOLDWATER. Mr. Chairman, I agree with the chairman, that we cannot do it this morning. I also agree that he is right in suggesting that it be done at some future date.

But I can't quite agree that this is not an important thing. Mr. Chairman, this has been a pattern all through these hearings, the fact that we have not heard the whole truth, and we have not heard the facts.

Just yesterday, as we were about to conclude the hearings on these particular acts of violence, we heard from a staff member that there were minutes in the records of local 212 to the effect that Mazey, Ferrazza, and Fiore were authorized to go over there, and yet those witnesses sat here on the witness stand day after day after day and told us that they didn't know why they were sent over there, and that they were just sent there.

I think it is time that we decide how truthful these people are in coming before us. I think it behooves the dignity of the Senate to require a little more adherence to the sworn truth. I think it is time that we found out who is telling it.

The CHAIRMAN. Well, I think, Senator, from my experience in the practice of law, that each Senator, and each juror, and each judge has to come to his own decision as to what the truth is, or the truth is not.

I am trying to give both sides here the opportunity, as best I know how, to present whatever evidence there is pertinent or relevant or that the committee may be interested in.

I am sorry that we can't conclude this matter today. If the witnesses were here, I would proceed accordingly, but we can't, and I will be glad to consult with the committee with respect to further procedure on this issue.

When the Chair said it wasn't important, I do not mean that the shooting of individuals is unimportant or that the charge of having committed a crime is unimportant in that sense. But in trying to find out what improper practices prevailed in labor management relations today, this would seem a little bit remote unless it can be established as a part of a pattern that has prevailed for many years.

In that respect, it would have some weight or some probative force in any proper decision I think the committee might reach with respect to remedial legislation.

All right, is there anything further?

Thank you very much.

The other witness, Mr. Brierather, will you take the stand again, please, and resume.

TESTIMONY OF LEO J. BRIERATHER, ACCOMPANIED BY HIS
COUNSEL, JOSEPH L. RAUH, JR.—Resumed

Senator CURTIS. Mr. Chairman, I have a question.

Mr. Brierather, you are a member of the local 833 strike committee, are you not?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. You were chief steward of 833?

Mr. BRIERATHER. One of them, sir.

Senator CURTIS. Also you were editor of the daily strike bulletin?

Mr. BRIERATHER. At one time, sir.

Senator CURTIS. How long a time were you editor?

Mr. BRIERATHER. Maybe a little over a year, sir.

Senator CURTIS. Excuse me, does he have something more he wants to say?

The CHAIRMAN. He hasn't concluded his statement, and I don't know whether the Senator wanted to permit him to or not.

Now, the Chair is going to ask you to start after the 1934 strike, and now let us not get back to that and get bogged down, and you talk about conditions in the plant since then.

You have been in the plant since November of 1934, and you start from November of 1934, and tell about conditions that you think are important for this committee to know about, that you know of your firsthand knowledge from working in the plant.

Mr. BRIERATHER. Yes, sir. When I began working at the Kohler Co., I joined the KWA. The KWA was formed by the Kohler Co. and the president of the Kohler Co. formed the union and called the first meetings and handed over the constitution, and I would like to present to you, again, an affidavit by John Stieber, telling the entire story.

The CHAIRMAN. It may be filed for the committee's examination.

Did I understand you to say that the company organized the KWA?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. I thought I understood you. All right, go ahead.

Mr. BRIERATHER. The first nominees for the first president were three foremen, sir, and at that time someone told in a meeting that it probably wouldn't be right and so they held another nomination, and John Stieber was named the first temporary chairman, and he was afforded office space within the Kohler plant for the purpose of organizing the plant, and also for the purpose of obtaining enough signatures to appeal for an election by the NLRB, or the agency which conducted those elections at that time.

I joined the KWA but I was unable to get any service from them.

Mr. CONGER. Mr. Chairman, may I be heard? We have another charge on hearsay charging an illegal act of the Kohler Co. We have a witness testifying entirely by hearsay, and I think it is an abuse of this committee to try to present that sort of evidence to them.

If Mr. Steiber knows about this, he ought to appear here and be sworn, and testify under oath. As to some of the things in this affidavit, I will appear and deny under oath.

The CHAIRMAN. Well, the Chair has not admitted the affidavit. This witness is testifying now as to facts within his knowledge since the strike of 1934 and since he was employed in the plant.

I haven't read the affidavit, and I haven't admitted it into evidence, and as we go along the Chair will give both sides, if the committee sustains him, an opportunity to refute any derogatory testimony.

Mr. CONGER. The Chair's rulings so far in my opinion have been perfectly proper and correct, but I think by this stage we all realize that this sort of testimony is not being directed at this committee but at the television and the newspapers, and it is a publicity gag and that is all it is.

The CHAIRMAN. Well, that may be your opinion, and the Chair is not going to permit anything just for that purpose. I can assure you of that.

I don't think that the committee would permit it just for that purpose. The fact that the newspapers and the cameras are here is also a tradition that we will continue to observe. They are welcome.

We all make little speeches sometimes, and I guess we think maybe someone is listening to us, both here and on the air, and sometimes we hope the press might take notice of what we say and make some reference to it.

But let us all do our best to get down to business here and move along.

Will you proceed, Mr. Witness?

Mr. BRIERATHER. During the time that I worked in the foundry, the Kohler Co. granted a so-called across-the-board wage increase. At the time these were granted, I was passed up, and all of the people in my department were passed up in the wage increase, because they thought we were making too much money.

We tried to get some action from the KWA, and I was personally told by Karl Susz, who was at the time supposed to be representing my department, that it was not his job to fight for the workers, and his job was as the operator of a sand muller in the foundry, and therefore he could do little or nothing for us.

The CHAIRMAN. The effect of your testimony on that point is that this KWA was definitely a company union or a company organization?

Mr. BRIERATHER. That is right.

The CHAIRMAN. All right, and now proceed.

Mr. BRIERATHER. There was no attempt made to find out whether we were actually earning enough or how we were working, and I would like to cite my own case in this particular instance.

The job that I had was supposed to be one of the easier ones in the plant, and they called it "playing in the sand." My normal weight at the time when I started working at the Kohler Co., and still is about 142 pounds.

During the time that I worked in there, my weight was 128 pounds, and during the hot season in the summer, I would go down to 118 by Friday night, and I would gain the 10 pounds over the 2-day weekend.

Now, I am sure that can tell better than any way else at what speed we had to work to earn the money, and we thought we had a justified claim but were unable to get anything.

This was not only true in my department but in many other ways within the plant. Working conditions were never ideal. Whenever the KWA appeared to be able to do something for the workers, the company did something in order to make the KWA ineffective.

At one time the KWA had a safety committee, which was supposed to operate in conjunction with the Kohler Co.'s safety committee, and make some recommendations to see that something could be done.

When it appeared that it could be effective, its actions were restricted, and particularly at the time when Edmund Biever became a plant manager.

I would like to submit to you an affidavit by Arthur Bauer, who has had considerable experience along those lines, and the affidavit tells about—

Senator MUNDT. Is Mr. Bauer living today?

Mr. BRIERATHIER. He is living, sir.

Senator MUNDT. Why don't we have these people come in as witnesses, and I can't understand this long series of affidavits suddenly.

Mr. RAUH, maybe you can explain there is some reason why he can't come.

Mr. RAUH. He can. Let me explain as I don't think you were in the room when I said this this morning, I went to Robert Kennedy, chief counsel, about 2 weeks ago, and I said, "May we have a day when we would present some of these instances and put on a lot of witnesses, about 20 or so, to tell about these instances?"

Mr. Kennedy said, "It is the committee's desire to speed things up. Isn't there some quicker way you can do this?"

And he said, "Isn't there one of your witnesses who will be here who could speed it up this way?" And I said, "I want to cooperate with the committee, and I would like to speed it up."

I had thought this was being helpful. Now if the committee would rather have it the other way, my original proposal was the other way. You may be right, and I have no argument with anybody here. I was trying to speed this thing up. I am sorry if it has not had that effect.

Mr. KENNEDY. Could I make a statement there? I thought that some of these points might have been of some interest; however, I did not think that they were of overriding interest, where they were just supporting a general point of view.

And I thought it was expensive and time-wasting to have a lot of witnesses on the 1934 strike, and a lot of witnesses to cover the situation in the plant from 1934 to 1954.

For that I must take the responsibility. I did not know exactly what was going to be in the affidavits, but I understood this witness could testify generally as to what the conditions were and would some support from other statements from other people.

Certainly these things are being submitted to the committee for their determination; and where he says that his testimony is hearsay, it is being taken on that basis.

Senator MUNDT. I am sure the counsel did not have any idea of what was in the affidavits and did not know one of them was going to accuse somebody of being shot, and probably did not know that the affidavits are in direct conflict with sworn testimony we have had from witnesses before the committee.

Since it is quite apparent that this whole hearing is going to have to be sent to the Department of Justice for what appears to be perjury on the part of somebody or other, and I am not saying who it is because I don't know, but we have had some flagrant conflicts over and over again, and now we are having one.

The testimony yesterday was that this was not a company-dominated union, and that the NLRB said that they held an election to determine whether it was or not, and they had an election. Now I don't know where the facts are, but it seems to me that on something as important as this, my only suggestion is that we have witnesses on one side and I don't like to have just a collection of papers on the other side.

If it is important to take up at all, I think it is important to take up properly.

The CHAIRMAN. May the Chair say then, I am permitting these affidavits simply to be filed with the committee for the committee's information. I am not accepting them as exhibits nor as testimony. I thought it was better procedure to let them simply be filed and let the committee evaluate them, and then determine what should be done with them, and in such evaluation they might determine which of the affiants they would like to have here personally as witnesses.

I am trying to proceed.

Senator MUNDT. That is perfectly proper up to that point, but then if the witness, after submitting the affidavit, and we take it for future consultation and determination, then proceeds to talk about what is in it, it seems to me that by indirection he achieves the same purpose that the Chair is trying to prevent him from doing directly.

Senator CURTIS. He read substantial parts of it.

The CHAIRMAN. He read excerpts from it, and that is what we have been permitting all of the way through. It is not direct testimony and we let in a lot of hearsay testimony. I suggest that you simply do this and let me see if we can straighten it out this way: You simply file here now at this moment all of the affidavits you have for the committee's information, and thereafter testify just from your own statement.

If you want to you can say in the course of it, without reading it, you have filed an affidavit that would support your testimony.

We will get that much of it in. These affidavits are simply being filed for the information and future disposition of the committee, in its discretion.

Do I have all of the affidavits now that you wish to file?

Mr. RAUH. I believe so. We have just handed up another batch. I would like to say this, if I may, that this concern by Senator Mundt and Senator Curtis about our affidavits is rather strange. They have not only allowed Kohler to put in about 800 affidavits, but they have themselves used editorials and letters and it just seems to me somewhat strange now that we should be prevented from putting in sworn affidavits in view of the things that have happened today.

However, we accept your ruling, Mr. Chairman.

Senator CURTIS. We have not objected to any affidavits that you want to put in. I have not objected to anything going into this hearing since I have been a member of this committee. I have had my own challenged a time or two, but I pointed out the substance that I objected to in this proceeding.

Mr. KENNEDY. I would like to say again that I feel the position Senator Ervin has taken during the past year on affidavits is the correct one. I understood, and I have not looked over these affidavits as yet, that this witness was going to testify as to certain facts, and that these affidavits were being brought in, in support of his testimony.

For that reason I thought they at least should be submitted to the committee for its help or assistance.

Mr. RAUH. I confirm that, and I also would like to say that Mr. Kennedy did not know about the substance of Deis' affidavit, and if there was anything wrong about it, it is our fault and he is not at fault in any way.

The CHAIRMAN. Now, can you proceed and testify from your own knowledge from November of 1934? The affidavits will remain on file, and the committee can confer about them, and we can determine what disposition to make.

If the committee majority feels they should be made exhibits, they will be, and if the majority feels that the witnesses should be called, they will be called.

(The witness conferred with his counsel.)

Mr. BRIERATHER. Silicosis was one of the problems within the Kohler plant. The KWA, while recognizing the problem, never undertook any kind of activity to try and obtain any remedy for the situation because it felt that they never had any kind of power.

The people or the representatives would shy away from any complaints on the part of the men. The workers in turn then felt it was simply no use to file any kind of a grievance and, certainly, it seemed to them and it seemed to me that the union leaders were just merely company stooges and that you could not get them to consider your problem.

Men complained many times of hazards within the plant. For instance, in the north foundry, after I had become a steward or a KWA representative in 1951 after the first UAW election, that was at the time that I became interested in representing the people and trying to take an active part in the union, I took this part, not on behalf of the UAW but for the KWA.

I was thoroughly convinced that if we could put the same type of efforts in an independent union and the same type of dues and money and back up the leadership with the Kohler Co., and the Kohler Co. supervisors referred to it as "sticking their necks out," I felt that we could do a job.

During this time that I became a representative of the workers in my area, I found out many things which astounded me and which I had no knowledge of before.

For instance, there were many safety hazards in the north foundry and most lifting mechanisms were suspended off the ceiling and, when the foundry was in operation, it seemed like the entire foundry was moving.

The CHAIRMAN. I wonder where you would suspend it from if it was not suspended from up high?

Mr. BRIERATHER. Well, the idea was that it was not placed up there adequately and the people on the bottom were fearful because, naturally, if you were to work underneath—

The CHAIRMAN. What you mean is that it was not made adequately secure and I think with hoisting machinery you have to have something up high to get it hoisted.

Mr. BRIERATHER. That is correct.

The CHAIRMAN. All right.

Mr. BRIERATHER. But whenever complaints were made the management or Mr. Biever minimized this whole deal and he said, "Well, this is O. K. We have approved it and it is all right."

However, a hoist fell off the track, a large hoist, and fortunately nobody was injured; and hand coppers came off the ceiling, and fortunately nobody was injured. However, a wheel came off a hoist and killed a man, Mr. Donald Nickerson, in June of 1951.

In another instance on our floor called Sand-handling 3, the men complained bitterly about the working conditions, that they did not have enough room to work and they were presenting hazards to each other merely by working and the machinery was crammed so closely together.

The CHAIRMAN. Now, you proceed and try to expedite this as much as you can. Just take it point by point. In the first place, it was a company-dominated union; and the next point was that you had no recourse from the standpoint of grievances and they would not pay any attention to that, and then move along from point to point and let us try to expedite it.

Mr. BRIERATHER. Well, on this particular floor, one of the men complained to the supervisor of the foundry and they were told, "If you don't like it, you know what you can do."

He would not recognize the problem and it was not until two men broke their legs on the floor that any recognition was given to the problem and anything was done about it.

One man stuck his foot in between a roller conveyor designed to move heavy flasks down to the casing area and, while doing so, somebody pushed the mechanism which was designed to push it down and he had his leg crushed between the flask and his pushing mechanism.

The supervisor of the night shift, Mr. Theibald, in an attempt to extricate this man, stuck his leg into a similar situation and had the same thing happen to him and it was then that we first received acknowledgement from the company in regard to the problem.

Now, we have been accused of many things, of fomenting or trying to get people excited in that plant, that we were responsible for the strike, that we were a bunch of liars and agitators and so forth. And I would like to point out that the problems within the plant had more to do with that than we did and, in fact, the Kohler Co. was the best organizer that you would want in those terms. We could not equal that if we wanted to.

The union at one time tried to get help from the industrial commission and registered some complaints with the Wisconsin Industrial Commission in order to take care of the hazards. However, when the examiner came around, the company refused to allow our representatives to accompany the person so we could show him exactly what was going on. The company would not allow it and they said, "Well, we will show him," and then they conducted him on a guided tour through the plant and we rarely ever heard of what happened and how the deal came out.

Certainly this did not satisfy the people in the plant. It was one of the determining factors of why they voted for a stronger union and eventually to strike.

In the enamel shop there was a good instance and we had quite a bit of testimony here on that yesterday. However, people out there

were convinced that the 12 guys fired by the company were not fired for insubordination and it was because they were active in the union activity and this was merely an excuse on the part of the company for firing them.

The enamel shop was particularly active in union organization over there and they felt that they became the whipping post and the Kohler Co. was trying to punish them for trying to stand up on their own feet. This was another serious problem in the minds of the men and it contributed greatly towards the affiliation with the UAW, for the strike votes that they had taken and, subsequently, for the strike.

The Kohler Co. must bear responsibility for the strike. Certainly, I, as a leader among the guys out there, never wanted to strike and I would much sooner try to work out our problems as other plants do through a decent collective bargaining contract.

This was the so-called labor peace that the Kohler Co. won for 20 years and it seemed to be in danger and that is why it became more interested in trying to subdue the people once more. This was not a peace that was based on friendship by any means and it was based on fear.

The people were simply fearful of acting concertedly and trying to take care of their problems because they remembered what happened before and they certainly did not want a strike. They only took a strike because they were finally forced to strike and, once for all, they had to determine a method of trying to gain what they thought was theirs. Certainly they did not want to be treated like dogs any longer.

It is the same thing. You can whip a dog into submission but you whip him long enough and he is going to turn around and bite and this is similar to what happened out there.

The KWA had a reconstruction period and the former leadership or Clyde Roop, who became a company supervisor, when he stepped out as the chairman of the KWA, was replaced by Chris Sittel of the foundry.

Over in pottery, for instance, Speedy Supeto became a foreman supervisor and he was replaced by Allen Grasskamp. In many other places throughout the plant there was a change of leadership for people that finally wanted to do something for the workers and they accepted these positions of responsibility.

They could not get anywhere either but these people in turn were not afraid to come back to the workers and tell them how they were making out. They did not want to be in a position of going up to top management or to the superintendent and getting into a terrific battle there and coming out much the worst for wear and then again coming back to the men and again getting a kick in the rear.

They were pretty sick of this and they began to report just what was going on.

(At this point, the following members were present: Senators McClellan, Ervin, Mundt, Curtis.)

As a result, the workers themselves had to decide once and for all whether they were going to act as individuals and betray each other and to inform on one another, in order so that they could better their own position. They found out that this didn't work and they decided once and for all that they had to stick together.

This was the result of the KWA affiliation, and the subsequent vote to get into an international union. We have heard quite a bit about the UAW-CIO only won by some 52 percent, but I would like to point out that the people in there voted for an international union, that many of the votes went over to the UAW-A. F. of L., that they were sick of an independent union, that they voted for an international union.

In 1950, the KWA under its new leadership, received its last contract but was unable to negotiate another one, because for the first time they were asking for benefits and privileges, and what they thought was right according to what the workers in the plants of their competitors and elsewhere were getting.

They were unable to reach another agreement. In 1951, as I stated before, the UAW lost its first election. That was only because the workers in the plant felt that they ought to get one more try and try to reorganize their organization and see if something could be done. But it certainly was proven otherwise. The union was still unable to function. The company made it harder for them to function. Where before the union representatives were afforded space in the offices, drawer space, to keep their records, the space was taken away from them. Even the financial resources of the independent union were in the form of candy and coke machines within the plant.

The company took that away from them in order to weaken it. This represented a real challenge to the people, too. They were wondering just what was going on. Here we were for the first time trying to get something that we felt we were entitled to, and the Kohler Co. was turning around and instead of bargaining and granting some of them, they were turning around to punish them.

In 1952 the KWA affiliated and the UAW won a subsequent election. Another independent organization was formed, similar to the one that was in 1934, and that certainly brought some memories back to many of the people. In fact, from that period on, we have spent the majority of the time in the courts, and this has been a real problem and a source of—well, people certainly took exception to this: that the Kohler Co., and particularly Lyman Conger, who is an attorney, would put his feet underneath the bargaining table and yet had his head up in the courts. In other words, for that period on there, it took us a great deal of money, something that the Kohler workers could never have afforded alone, in order to fight all of the various litigations, including the one that the so-called independent union began.

With the new organization, we attempted to set up a far more democratic organization than we ever had before. We felt that if the workers in the plant wanted to have leadership there had to be a relationship between that leadership and the workers in the plant. In other words, they would determine what they wanted once and for all, and they would have to be prepared to back up anything that they did want. It was not a case of sending someone in who was kind enough or maybe even stupid enough to accept a position of responsibility, and expect him to stick their neck out, and once it is chopped off to wash their hands entirely of the responsibility.

As a result, we organized committees in order to get people interested in participating in the local union. We had 8 months of nego-

tiations before we obtained our first contract. We thought at the time that the first contract could at least spell some relief from the problems that were in the plant.

We certainly said so, because we thought that we had something. But from the very beginning, the grievances started to pile up. We found out that the Kohler Co.'s interpretation of that contract was very much different than the way we had interpreted it, and, as a result, we couldn't settle any grievances.

Subsequently, the international union sent in an international representative, Robert Burkhart, to aid us with it, because we were no match for Lyman Conger and his legal mind. We never were and we never pretend that we could be. This is one of the reasons why we affiliated with the UAW, so that a guy could sit across from the bargaining table and have some chance of getting through to him.

The piled up grievances certainly had their effect within the Kohler plant. We still had to find out some way to figure out how to take care of the problems presented by the workers. As a result, we established a contract committee, which was formed of all of the chief stewards, and I was a member of that contract committee, and we held many, many meetings, departmental meetings, and larger group meetings, and we heard all the problems, all of the complaints in the plant, and then we obtained contracts which were found in plants of the competitors and elsewhere, from other unions, and we tried to formulate contract language which could possibly take care of this problem.

Before we presented the final contract proposal, we submitted it again to the membership, and let them pass on it once more to be absolutely sure that this was not our demands, but that these were the demands and the proposals of the actual membership.

This proposal was presented to the Kohler Co. and the Kohler Co. termed this proposal as "over 100 sensational demands." It might have been sensational to the Kohler Co., but every one of these demands certainly reflected some guy's problem within the shop, and they didn't seem sensational to us at all because we had at no place exceeded the contract language which we had found in some of the others. Meanwhile, within the plant, things were getting from bad to worse. The Kohler Co. had a surveillance program going of any kind of union activity. I was informed by my foreman at one time that he had to record if I left the floor, or what I was doing. At one time he even gave me a so-called good conduct pass. He said, "Well, we have been watching you for a long time, and I have orders now that you can go anywhere you please," inasmuch as to say that they would trust me. This was not true with some of the others. The other stewards and representatives of the workers many times would step up to a worker and it didn't take a minute before he was tapped on the shoulder by a foreman or supervisor who said, "Hey, don't interrupt production."

This was in contrast to many years of so-called freedom of the plant before, when the union was ineffective. Some of the demands that we made upon the Kohler Co. were a substantial increase in wages, especially in 1954. We felt that we were still far behind what they were paying in the plants of the competitors, and we didn't think that the proposal of 10 cents an hour for all employees and 20 cents an hour for skilled trades employees was at all unreasonable.

We asked for arbitration of the grievances. We had what we thought was an arbitration, a good clause, in the 1953 contract, but we found out that our interpretation and the company's were not always the same. As a result, there is even pending now a suit for a declaratory judgment to find out exactly what that arbitration proposal means.

However, we wanted to have a method, some machinery, in order so we could take care of some problems which you couldn't resolve, which you couldn't finally agree on, have some third party take a position on it, and it would be binding on the parties, and you would have the problem out of the way.

It wouldn't be a constant source of infection within the plant. People will accept the decision of someone. If they are wrong, they are wrong, and if they are right—well, they have won. But you have to put a problem out of the way so it is out of the way for all time. That is what we were trying to obtain. In the enamel shop, even though the first contract was signed and it was agreed upon to let the company get away with putting the work hours to an 8-hour day from a 6-hour day, which had been a longstanding procedure, we merely turned down these demands to a paid lunch period, which certainly was reasonable in light of what the company had taken away from them. The company said, "Well, we never gave anything."

Well, we certainly gave away a heck of a lot in that particular plant. The enamel workers were not happy with it. We had to do some selling in order to get the demands down to this. It wasn't easy to bargain with Conger—

The CHAIRMAN. May the Chair interrupt? How long before you think you can conclude with your general statement?

Mr. BRIERATHER. Another 10 minutes, sir.

(The witness conferred with his counsel.)

The CHAIRMAN. All right. Proceed for 10 minutes. Go ahead.

Mr. BRIERATHER. It wasn't easy to bargain with Conger at any time. He would ridicule our proposals, he was rude, snarling, and vulgar. I would like to call your attention, if you have it before you, to an affidavit by Mr. Kohlhagen and Mr. Graskamp, who were members of the bargaining committee.

This affidavit was signed on March 17, 1958. Have you got that, sir?

Mr. KENNEDY. Is that the affidavit that was furnished about 3 or 4 days ago?

Mr. RAUH. Yes.

(The document was handed to the committee.)

Mr. BRIERATHER. One of the demands was for a maternity leave of absence for the women employees. We had a real stout grievance in the 1953 contract by a woman by the name of Marie Voelker, who worked until 2 days before her confinement, and when she returned, she was refused her job. We wanted to get something to have maternity cases—

The CHAIRMAN. The Chair will announce that this affidavit will be placed with the others, filed with the others, for the committee's attention. Go ahead.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. This case that you are talking about, were there any NLRB charges filed?

Mr. BRIERATHIER. No, sir.

Senator CURTIS. Were there charges filed on any of these others?

Mr. BRIERATHIER. In what respect, sir?

Senator CURTIS. You have complained about the treatment of the company. I wondered in how many of these instances charges were filed before the NLRB, these specific ones that you have testified about.

(The witness conferred with his counsel.)

Mr. BRIERATHIER. Well, as I understand it, the problems such as I related them were not things that could be filed before the NLRB. These were matters of collective bargaining, sir.

Senator CURTIS. I was referring to the treatment of individual workers. You spoke of this maternity case, and she was hired. What was the lady's name?

Mr. BRIERATHIER. Marie Voelker.

Senator CURTIS. Was her case sent to the NLRB?

Mr. BRIERATHIER. I beg your pardon, sir?

Senator CURTIS. Was there a complaint filed before the NLRB in her case?

Mr. BRIERATHIER. No, sir. As I understand it——

Senator ERVIN. I don't believe the Taft-Hartley law would cover that kind of a case unless you have a contract to cover it.

Mr. RAUH. I think Judge Ervin is correct on that. The complaint here was that a lady had worked up to 2 days of giving birth. They wouldn't give her her job back after she gave birth. They tried to send this to arbitration. The company refuses. That, I don't believe, is an unfair labor practice. It is a question of a determination of the arbitration clause. That is now in the courts. I think Judge Ervin is quite right.

The CHAIRMAN. In other words, the union contended that it should come within the arbitration clause of the contract?

Mr. RAUH. All of these things. I can't speak about a particular one, sir. But generally we are always doing that. The company would say "They don't fall within it, that doesn't make an unfair labor practice."

The CHAIRMAN. In other words, the great controversy was with regard to what did come within the purview of arbitration and what did not?

Mr. RAUH. Yes, sir.

The CHAIRMAN. The company placed one interpretation on the contract clause and the union placed another.

Mr. RAUH. Yes, sir.

The CHAIRMAN. That they were never able to resolve.

Mr. RAUH. It is not resolved. It is in the courts at this particular moment, still.

The CHAIRMAN. All right. Proceed.

Mr. BRIERATHIER. As I pointed out, it wasn't easy to negotiate anything with the Kohler Co. In this particular instance, or the negotiations which revolved around this particular clause, which we thought was certainly one that the people in the plant were deserving of, we considered that maternity was certainly a human element which

should be considered and should be considered the same way as any other sickness and a leave of absence.

I would like to quote from this affidavit of Allan Graskamp. However, I will leave out some of it, because I wouldn't care to mention it particularly on TV. The affidavit says—

The CHAIRMAN. Is that the affidavit that you filed here?

Mr. BRIERATHER. Yes.

The CHAIRMAN. Well, quote from it briefly. The Chair is going pretty far in that direction now.

Mr. BRIERATHER. "During a discussion of maternity leave"—

The CHAIRMAN. Just summarize whatever he may have said.

Mr. BRIERATHER. The affidavit says in effect that Conger said

Women should learn to take care of themselves, and the trouble with most women around here is that they want their fun and blank at home and have their jobs, too.

This was an attitude.

The CHAIRMAN. Well, let's don't get into that.

Mr. BRIERATHER. This is the type of thing we were faced with. It wasn't easy to negotiate anything across the bargaining table as long as Mr. Conger was there.

(At this point, Senator Goldwater entered the hearing room.)

The CHAIRMAN. I think I have read that affidavit. I think it goes a little far.

Proceed.

I think it can be said this way: The company took a position that if a woman got pregnant, that wasn't their responsibility, and after the baby came, they didn't have to hire her back. Isn't that the fact?

Mr. BRIERATHER. That is correct.

The CHAIRMAN. Let's say it that way, and move on.

Mr. BRIERATHER. The Kohler workers worked 5 weeks without a contract. We had proposed to extend the existing contract for a period of a month and maybe even longer for the purpose of good faith collective bargaining in an effort to settle the issues in dispute in a peaceful way.

The company, in turn, offered to extend the contract for a period of 1 year, which we knew we couldn't accept and sell to the membership. As an alternative, they gave us another proposal of taking the Kohler Co.'s proposal, which had deleted many of the things or benefits, I will say, of the 1953 contract, and offered us 3 cents in return.

The company must have known that we couldn't sell this at any time to the membership with the type of pressure that they were putting on to the bargaining committee.

They must have known that the workers themselves wanted the stuff or the different benefits and demands that we were working on, that we had in our proposal. The union voted to strike on March 14, and all this while, instead of negotiating in good faith, the people in the plant were aware of the fact that the company, instead of negotiating in good faith, were preparing for war. The display of putting cots into the plant and erecting shanties on the roof, the establishment of an arsenal—I was personally aware of Kohler Co. supervision holding pistol practice in the south foundry, shooting at silhouettes.

This all didn't have the best effect upon the workers within the plant. This, more than anything else, reminded them of the 1934

strike. Believe you me, we were afraid of this whole deal. You just don't want to get into a situation like that again.

On the outside of the plant, we were aware of the village making substantial preparations, even as far back as 1952. There were new deputies, gun and tear gas practice, even with machineguns under the guise of civil defense.

Some of our own people had joined this organization, figuring that they were joining civil defense.

I would like to call your attention to an affidavit of Lee Blandin, which you have in your possession, which tells the entire story of one man.

The CHAIRMAN. Has that affidavit been filed?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. All right. Make reference to it.

Mr. BRIERATHER. In our opinion, and in the opinion of the workers, this was not law enforcement, but it was just another arm of the Kohler Co. Special police were made up of company supervision and scabs, people that we knew were not with us. They were not acting as independent or neutral people, in law enforcement, no more than if the special police would have been our own strikers.

That wouldn't have been neutral either. The Kohler Village is made up of members of supervision mostly. There are very few of the workers within the plant that live out there.

The village officials are members of company supervision and from the office. So we certainly were fearful of anything. We remembered what the 1934 strike had produced, and we were fearful of doing anything that would produce the same results in 1954.

One of the very interesting things that we had noted even after the strike began is if there was a court case in the Kohler Village, the squad car would go right into the Kohler plant and bring out the justice of the peace to sit on the case. Certainly that didn't give us much confidence in the type of justice you might be able to get.

In another case we tried to get a jury trial out there, and the person that was ordered to form the jury was one of the guys that processed or headed up the IKWA case, or the independent union case against us.

He later turned out to be a scab. Certainly we weren't or couldn't have any confidence in that either. This is the story of the Kohler strike, sir. We have been charged with fomenting this thing. We have been charged with many things. But you have to understand the feelings of the men in the plant. There was a transition from a period where one guy didn't trust another within the plant. The foreman would try to keep the guys apart, try to inform on one another.

They were fearful of each other. When the strike began, and they turned out en masse, on April 5, they not only proved to the Kohler Co. that the demands were the demands of the workers, but they were proving to themselves, sir, to themselves, that once they were going to stick together, that there will be no betrayal of each other.

They remembered how the company obtained this 20 years of labor peace, and they were not going to put themselves in the position of doing this again.

That labor peace was never based on friendship, by no stretch of the imagination, but by fear and a memory of 1934.

The fear or the feeling against the Kohler Co. can possibly be expressed better in one way than I know of any other way, sir. I would

like to show you something. I cannot offer you an exhibit. It is not mine to offer. I would like to show you an item I picked up during contacting many people, something that I was not aware of at any time before this time.

The CHAIRMAN. What is it? What is that?

Mr. BRIERATHER. Sir, this is a shirt.

The CHAIRMAN. How is it related to this?

Mr. BRIERATHER. This is a shirt that might look like hundreds of thousands of other shirts, with the exception it has three holes in it.

The CHAIRMAN. It has what?

Mr. BRIERATHER. Three holes in it. Two in the arm, and one in the breast. This is the shirt, sir, that Lee Wakefield wore the night he was shot in 1934.

The CHAIRMAN. Were you there?

Mr. BRIERATHER. No, sir.

The CHAIRMAN. Do you know anything about it?

Mr. BRIERATHER. This is the shirt that was given to me by Margaret Wakefield, who was the sister of Lee Wakefield. I would like to point out just one thing.

The CHAIRMAN. Let the Chair point out a little. I am not going to accept that shirt as an exhibit. If we are going to do that, we are going to run all over the country and bring everybody in here that had a little bruise or something. That isn't in my book, in my judgment—and I may be wrong, but the committee can overrule me on it—in my judgment, that hasn't any place in here. You say a fellow got shot, period. O. K. You didn't see him shot. Somebody gave you a shirt, and you want to bring it up here for us to receive. I am not going to receive it.

Senator CURTIS. Who did you say the man was who got shot?

Mr. BRIERATHER. Lee Wakefield.

Senator CURTIS. What was the date?

Mr. BRIERATHER. July 27, 1934.

Senator CURTIS. This is, again, during the month that you were working on a farm 20 miles from there?

Mr. BRIERATHER. That is correct, sir.

Senator CURTIS. I am not critical of you, Mr. Brierather, but I resent the way that others have engineered your testimony here in that you have to drag in all of these things in this manner. I am not going to object to your going on. I just don't believe it is being proper or fair with the committee.

The CHAIRMAN. The Chair has tried to be as lenient as I think I could possibly be justified in doing. I am not trying to suppress anything that might be helpful to this committee, or that might reveal a fact that this committee should consider in the performance of its duty.

But I just don't think that bringing in a shirt that some sister gave for this purpose—I just think that is carrying it a little too far. That is my conclusion about it. I want to be fair, but I don't think that adds anything to it.

You can say people got shot. We have testimony here that so many were shot, and so many were injured, and a lot of them shot in the back. We have all of that testimony. The waving of a shirt out here with bullet holes in it is not very impressive to me.

Senator MUNDT. I think if the witness has any personal observations there as to who shot this man, that is one thing. But bringing in a shirt with some holes in it is a curious kind of testimony. I certainly support the Chair in his ruling.

The CHAIRMAN. I want to be as fair to one side as the other one, gentlemen, and I think I have a pretty open mind in this thing. All I want to do is get the truth and get the facts. But we have had the testimony that people have been shot in 1934, and we have had further testimony that nobody was shot in 1954, thank goodness for that.

I think conditions may have improved some over that period of 20 years. I only wish they would continue to improve until you get this matter settled.

But that is a wish and a hope that I cannot actually control the destiny of. All right. Is there anything further before we recess?

You have concluded, have you?

Mr. BRIERATHER. I am about to conclude, sir.

The CHAIRMAN. I will give you the time to finish up.

Mr. BRIERATHER. I only wish to point out, sir, God knows how many other of these relics and remembrances are in Sheboygan.

I have nothing else to prove by that. But we have been charged with trying to foment a campaign of hatred and fear. I would like to say that we had nothing to do with this type of stuff.

The CHAIRMAN. Don't you think when you go out and call people scabs and parade around their homes, picket their homes, that you are engendering and inciting a feeling of hatred and resentment?

Mr. BRIERATHER. Sir, we never incited anything, sir.

The CHAIRMAN. You mean nothing like that happened?

Mr. BRIERATHER. It did happen, sir, but I——

The CHAIRMAN. It did happen. Don't you think that is calculated to incite further resentment and feeling of hate and contempt among the people themselves, their neighbors and friends?

Mr. BRIERATHER. I believe it is a direct result of the helpless feeling, sir.

The CHAIRMAN. I am not talking about what it is the result of, but isn't it calculated to do the very thing that you say here should not be done? I have sat here and listened to testimony from witnesses, and referring to somebody wanting to go to work, they take the line and refer to him here in public, even, as a scab. I think if I wanted to work I would feel a little resentment to being called names like that.

I don't think the blame is altogether on one side or the other, up to now in this hearing.

Mr. BRIERATHER. I agree with you on that, Senator. I would like to point out that we certainly don't approve of those things. We deplore them, sir.

The CHAIRMAN. I hope you don't approve. Is there anything further before we recess?

The committee will stand in recess until 2 o'clock.

May I ask Mr. Conger and Mr. Graskamp, if you can, to have your memorandums read at that time.

(Whereupon, at 12:17 p. m. the committee recessed, to reconvene at 2 p. m. of the same day, with the following members present: Senators McClellan, Ervin, Goldwater, Mundt, and Curtis.)

AFTERNOON SESSION

The CHAIRMAN. The committee will be in order.

(Members of the committee present at the convening of the session were: Senators McClellan and Goldwater.)

TESTIMONY OF ALLAN GRASSKAMP AND LYMAN C. CONGER—
Resumed

The CHAIRMAN. Mr. Grasskamp and Mr. Conger will you come around, please?

Mr. Conger, this morning you submitted to the Chair a memorandum in conformity with the committee's request as of yesterday, regarding the unresolved issues between the company and the union.

Mr. CONGER. Yes, sir.

The CHAIRMAN. I don't know whether you formally submitted it, but you handed me one, and are you prepared now to formally submit to the committee the memorandum you prepared?

Mr. CONGER. Yes, sir, Mr. Chairman.

The CHAIRMAN. All right, it may be submitted. Do you have extra copies?

Mr. CONGER. I have some.

The CHAIRMAN. If you have such copies for each member of the committee, I would like for them to have it, please.

And Mr. Grasskamp, you have supplied the Chair with several copies here of the memorandum which you have submitted in response to the Chair's request.

Mr. GRASSKAMP. I have the original here yet and I want to say at this time, Mr. Chairman, that I sincerely want to apologize and I am sorry that I didn't have it ready at 10 o'clock this morning, but inadvertently had left something out that I did not want to mislead the committee on, and therefore I wanted to include it and it wasn't ready at 10 o'clock.

The CHAIRMAN. That is all right, and the committee has not been inconvenienced any by the delay.

The Chair with the approval of the members of the committee, is going to order the two memorandums printed in the record at this point.

Is there objection?

Senator CURTIS. Are there memorandums for both sides?

The CHAIRMAN. Both sides have filed their memorandums in compliance with the Chair's request of yesterday. Without objection, then, they will be printed in the record at this point.

(Memorandum of unresolved issues prepared by Kohler Co.:)

Reinstatement: The union has demanded that the company discharge or lay off present employees to make jobs available for returning strikers.

The company is not willing to discharge or lay off present employees to create jobs for strikers who desire to return to work. Nor is it willing to reinstate strikers who have been guilty of serious or illegal conduct in connection with the strike.

Under existing conditions, the company cannot guarantee when, if ever, jobs will become available for strikers who desire to return to work.

Union security: The union's original demand was for a union shop which would have required every employee to join this union whether he desired to or not. On August 10, 1954, they changed this demand to maintenance of membership.

In the latter stages of the bargaining, the union has taken inconsistent positions, announcing publicly that they had dropped their union security demands while still arguing for them at the bargaining sessions.

The NLRB trial examiner, after hearing all the evidence, commented that whether the union had dropped its maintenance of membership demands was "left uncertain on the entire record."

Seniority: During June of 1954 agreement was reached on this subject due to company concessions.

Then the union raised a question of interpretation of a contract provision relating to layoffs which had been in the old contract and which the union had previously accepted. This was despite the fact that there had been no layoff of any Kohler employee for 17 years.

Insurance: The union demanded increased hospitalization benefits. The company offered increased benefits which were acceptable to the union.

The remaining issue was who should pay for the increased benefits. The company offered to pay the entire increased cost of the benefits for employees.

The union insisted that the company also pay the entire increased cost for dependents of employees as well as for the employees themselves.

Wages: The union's original demand was for a general wage increase of 20 cents per hour plus 10 cents per hour for so-called skilled workers. On August 10, 1955, it changed this demand to 10 cents per hour general wage increase plus 5 cents per hour for so-called skilled workers.

Prior to the strike the company had offered a wage increase of 3 cents per hour. An additional 5 cents per hour for incentive workers and 10 cents per hour for hourly paid workers was offered in July of 1955. These increases were put into effect after their rejection by the union.

The company also put into effect a wage increase of 8 cents to 12 cents per hour January 1, 1957.

We have no information as to the union's present wage demands.

Pensions: The union demanded a noncontributory pension plan. The company's pension plan is contributory, like social security, although the employee's contribution is less than under social security.

The company offered to make the minimum pension benefits under its existing contributory pension plan equal to the maximum pension benefits under the union's proposed plan.

This issue is still unresolved so far as we know.

Arbitration: The union proposed practically unlimited arbitration which would have given a party having no knowledge of their business or responsibility for its successful operation the authority to make vital management decisions affecting the welfare of the company.

The company offered arbitration of the interpretation and application of the contract, i. e., all the power that a court of law would have.

Paid lunch time in the enamel shop: The union demanded a 4 percent increase in the piece rates in the enamel shop to provide pay for eating lunch.

The company's position was that the union's demand was a thinly disguised demand for a 4 percent wage increase. The company offered two 10-minute lunch periods without pay.

Major status: This strike was not a strike for recognition. At the outset and for a considerable time the company did not formally challenge the union's majority status.

However, as of February 10, 1955, after one of the several amendments to the NLRB complaint, the company amended its answer to deny that the UAW still represented a majority of its employees. This issue is still unresolved.

The company is willing to enter into a contract with any union which represents a majority of its employees. The company cannot lawfully deal with a minority union.

This union has coerced and intimidated employees who have clearly indicated that they do not want to be represented by it and has subjected them to a vicious reign of terror.

The company cannot in good conscience tell these employees that, regardless of their desires, the company will enter into a contract which means that if in the future they desire a wage increase or the settlement of a grievance, they must deal exclusively through a union which they do not want.

Hon. JOHN McCLELLAN,

Chairman, Senate Select Committee on Improper Activities in the Labor and Management Field, Senate Office Building, Washington, D. C.

DEAR SENATOR: In keeping with your request made to me as president of local 833 during the afternoon session, March 19, 1958, I am submitting a complete list of all of the remaining issues in dispute between the Kohler Co. and local 833 of the UAW together with the union's position with respect to each of these unresolved issues.

CONTRACT ISSUES

1. Final step of the grievance procedure involving arbitration of grievances.
2. Seniority (10 percent deviation on layoff).
3. Lunch period in the enamel shop.

The union has proposed to settle these remaining contract issues on the basis of the language contained in the contract between the Kohler Co. and the UAW dated February 23, 1953.

This together with all other changes in contract language previously agreed upon and incorporated in the company's July 26, 1955, proposal and the wage standards and classifications presently in existence at the Kohler Co. plant would constitute the basis for a new contract between the parties.

4. Pensions: The union has withdrawn its demand for noncontributory pension plan and will agree to the present company contributory pension plan provided that the company will meet the minimum benefit of \$2.25 per year of service. Arrangements should be made to apply this minimum benefit to those workers who have already retired during the course of the strike.

Arrangements should also be made to permit employees who have withdrawn their contribution to the existing pension plan during the course of the strike to reinstate themselves under the plan.

5. Reinstatement of strikers and rescinding of discharges: The union has proposed to settle this entire matter on the basis of the findings of the trial examiner of the NLRB dated October 9, 1957, as set forth in detail in the trial examiner's intermediary report. The company has refused this offer of the union and has appealed the entire trial examiner's report to the full Board, and, as a result, the union has appealed to the NLRB those parts of the examiner's report with which the union did not agree.

Items 1, 2, 3, and 4 are based upon the settlement proposal made by the union in the meeting of April 26, 1957 held in Sheboygan, Wis., at the request of the three nationally prominent clergymen, the Reverend Cameron Hall, of the National Council of Churches; Rabbi Eugene Lipman, of the Union of American Hebrew Congregations; and the Reverend John F. Cronin, S. S., of the National Catholic Welfare Conference.

Item No. 5 is based on the findings of the trial examiner of the National Labor Relations Board, and is consistent with the proposal made by President Walter P. Reuther in a telegram, dated October 14, 1957, sent to Herbert V. Kohler, president of the company, shortly after the trial examiner's report was issued.

While we recognize, as you have pointed out on many occasions, that it is not the function of this committee to settle this dispute, we in the UAW are most appreciative of your request for this information from both the union and the company. We feel your request is a constructive effort to bring into sharper focus the issues still in dispute.

We are hopeful that such outlines by both the union and the company will point out clearly that these duties are not insoluble and that they can be settled, given an honest desire to do so on the part of both parties. On behalf of the striking members of the UAW Local 833, I can assure you that we will do everything possible to conclude a prompt, honorable, and just settlement of all these matters.

This letter is being countersigned by Art Bauer, vice president of local 833, and E. H. Kohlhausen, recording secretary, who, with myself, constitute the bargaining committee of local 833, which has complete authority from the membership of local 833 to negotiate a settlement of this long and bitter strike.

ALLAN GRASSKAMP,
President, Local 833, UAW.

ART BAUER,
President, Local 833, UAW.

E. H. KOHLHAUSEN,
Recording Secretary, Local 833.

The CHAIRMAN. The Chair has hurriedly read both, and I think they require some study, and so the Chair at least will withhold any comment on them for the present, but we will have an analysis of them made, in the hope that we can see just how narrow or how broad the differences are that still remain.

I am hopeful that they will afford a basis of study, and, again, I don't want anyone to get the impression this committee is charged with the duty of settling strikes. But at least the Chair, if he felt he could make some constructive suggestion, would feel free to do so, and I think other members of the committee would feel the same way.

Thank you, gentlemen, very much. Does counsel wish to ask one of you a question?

TESTIMONY OF LYMAN C. CONGER—Resumed

Mr. KENNEDY. Mr. Conger, on the last page, is it your feeling that the UAW is not the majority union any more?

Mr. CONGER. Yes, sir.

Mr. KENNEDY. And the company is willing to enter into a contract with any union which represents a majority of its employees?

Mr. CONGER. Yes.

Mr. KENNEDY. And the company cannot lawfully deal with a minority union?

Mr. CONGER. Yes.

Mr. KENNEDY. Do you feel the UAW is a minority union?

Mr. CONGER. Yes.

Mr. KENNEDY. So, would it be your feeling that under no circumstances would you sign a contract with the UAW at the present time?

Mr. CONGER. Not under no circumstances. If they establish that they are a majority union, we would deal with them; yes.

Mr. KENNEDY. Prior to an election, or another election, is it your position that you would not deal with the UAW at the present time?

Mr. CONGER. An election or some other reasonable means of determining that they actually do represent a majority of the employees.

The CHAIRMAN. Is that an issue now before the National Labor Relations Board?

Mr. CONGER. Yes. Mr. Chairman.

The CHAIRMAN. That is one of your pleadings?

Mr. CONGER. That is in that.

The CHAIRMAN. That is covered by your pleadings, and that question of whether they are now a majority representation or not is at issue before the National Labor Relations Board at present?

Mr. CONGER. Yes, and it has been since February 10, 1955.

The CHAIRMAN. All right. Thank you very much. We have extra copies here, gentlemen, if you didn't get them.

Mr. CONGER. May I be heard at this time? Again, repeatedly this morning, some charges were made, and some serious charges, against the Kohler Co. on what I think is largely hearsay evidence, and I would ask permission at this time to reply to them, some of them, and not all of them, and I won't take more than 10 or 15 minutes to do it.

But I do want to call the committee's attention to some facts and figures that are documented.

The CHAIRMAN. The Chair has been very lenient in these matters and I would like to proceed with this witness now until we can get through with him. I didn't hear anything so bad here this morning.

Mr. CONGER. Well, I did, in my opinion.

The CHAIRMAN. I heard one man's opinion of several things.

Mr. CONGER. I heard ourselves charged with some serious offenses; firing people because they belonged to the union, disregard for people's health and safety, and things of that type.

The CHAIRMAN. Just a moment, now. Those things are being charged all of the time, and you will have an opportunity to answer those. I cannot, just every time a witness makes one statement, then call the other side and let him refute it.

Mr. CONGER. Thank you.

The CHAIRMAN. We will give you the opportunity later.

All right, come around, Mr. Brierather.

TESTIMONY OF LEO J. BRIERATHER—Resumed

The CHAIRMAN. Now, I believe you had finished your statement this morning with respect to that 20-year period of labor peace in the Kohler plant; is that correct?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. And that was the statement that you had desired to make before being interrogated by the committee?

Mr. BRIERATHER. That is correct, sir.

The CHAIRMAN. All right, Mr. Counsel.

Mr. BRIERATHER. I would like to make a statement.

I understand that Senator Goldwater, after the hearings today, made a statement over television that my testimony this morning does not appear to be my own, and that it was a product of the publicity department, and it was a fabrication that I understand was made.

I would like to state right here that my testimony this morning was my own, and it was only mine.

I lived the 20 years of labor peace, and I lived 4 years of strike, and I think that that statement was unfair, not only to me, sir, but to my family and to my wife and three children who have supported me.

I have lived in a goldfish bowl ever since I have become active in this affair, and I am sure that I have tried to the best of my ability to create an impression, my own impression within that plant, and I am trying to tell a true and accurate story in the shortest amount of time possible.

The CHAIRMAN. Senator Goldwater, do you wish to make any comment?

Senator GOLDWATER. No, but I am glad someone was listening to the television.

The CHAIRMAN. Any Senator, of course, may make comment whenever he feels like it with respect to any testimony he hears, as to how much credence he gives to it, or how much weight he gives to it.

Of course, a witness when he testifies presumably is testifying for himself, and those who hear the witness testify and hear the statement of the Senators can judge accordingly.

All right; proceed, Mr. Counsel.

Senator CURTIS. May I ask a question at this point?

Who secured Mr. John Deis' affidavit?

Mr. BRIERATHER. Do you mean who asked for the affidavit?

Senator CURTIS. Yes.

Mr. BRIERATHER. We did. I did.

Senator CURTIS. Who got in touch with him and got it typed up and arranged for it?

Mr. BRIERATHER. I did, sir.

Senator CURTIS. You typed it up?

Mr. BRIERATHER. Oh, no, sir.

Senator CURTIS. I see it has the name of David Rabinovitz, attorney at law of Sheboygan, Wis. Did he assist in making this affidavit?

Mr. BRIERATHER. I had called his office.

Senator CURTIS. Did his office have anything to do with the preparation of this affidavit?

Mr. BRIERATHER. Possibly they did; yes, sir.

Senator CURTIS. Do you know where it was typed?

Mr. BRIERATHER. No, sir; most likely by the notary public, sir.

Senator CURTIS. Do you think the notary typed it?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Who is the notary?

Mr. BRIERATHER. Well, sir, you have the affidavit.

Senator CURTIS. Mona Methfessel. Who is that?

Mr. BRIERATHER. She is a notary public in Sheboygan, and she works in David Rabinovitz' office.

Senator CURTIS. I wonder if I could ask Mr. Rabinovitz a question about this? He has been sworn, I believe.

The CHAIRMAN. Mr. Rabinovitz, will you come around, please.

He doesn't seem to be present.

Mr. RAUL. He is in the phone booth.

The CHAIRMAN. Mr. Rabinovitz, will you come around in front of the committee, as your presence has been requested.

Senator CURTIS wishes to ask you a question.

TESTIMONY OF DAVID RABINOVITZ—Resumed

Senator CURTIS. You have been sworn, sir?

Mr. RABINOVITZ. I have, sir.

Senator CURTIS. Did you assist in the preparation of this affidavit of John Deis—is that the way they pronounce it?

Mr. RABINOVITZ. I did not.

Senator CURTIS. Was it prepared in your office?

Mr. RABINOVITZ. I understand it was.

Senator CURTIS. Have you read it?

Mr. RABINOVITZ. I did.

Senator CURTIS. Is there any variation of material fact in this affidavit, and the testimony including depositions that were given by John Deis in the suit against the Kohler Co.?

Mr. RABINOVITZ. I am not at this moment familiar with any testimony given by John Deis, sir.

Senator CURTIS. There was a deposition taken, was there not?

Mr. RABINOVITZ. My recollection is, and I made that recollection just this afternoon, that there was an adverse examination held in the matter, but I haven't seen the testimony for 22 or 23 years, and I am not acquainted with it at the present time.

Senator CURTIS. You were his lawyer back at the time?

Mr. RABINOVITZ. No, I was not.

Senator CURTIS. When he sued the Kohler Co.?

Mr. RABINOVITZ. No. Joseph Padway of Milwaukee was his lawyer.

Senator CURTIS. Were you associated at all in the trial in the cause?

Mr. RABINOVITZ. I don't believe my name appeared on the pleadings although I did make a thorough investigation at the time; and I am sure that I interviewed probably 200 or 300 people, and I did gather affidavits, but I do not believe that I was a lawyer representing the plaintiffs.

Senator CURTIS. You were not a lawyer of record but you did work on it?

Mr. RABINOVITZ. Yes, I assisted Mr. Padway, I am sure, at that time, in the preparation, and I believe the pleading had just Joe Padway's name on it, but I am not too sure of that.

Senator CURTIS. But at that time you knew John Deis?

Mr. RABINOVITZ. I have no recollection of John Deis at all, and I wouldn't know him if I saw him today.

Senator CURTIS. But you did talk to him then in the course of working on the case?

Mr. RABINOVITZ. I probably did.

Senator CURTIS. And you do not know whether or not there is a variation of any material fact in his present statement and his deposition taken?

Mr. RABINOVITZ. I do not.

Senator CURTIS. That is all with this witness.

The CHAIRMAN. Thank you very much.

Proceed, Mr. Counsel, with Mr. Brierather.

TESTIMONY OF LEO J. BRIERATHER—Resumed

Mr. KENNEDY. You went out on strike on April 5, 1954?

Mr. BRIERATHER. I did, sir.

Mr. KENNEDY. And you were chief steward at the time?

Mr. BRIERATHER. Yes, sir.

Mr. KENNEDY. When the union began its boycott, you had a position in the operations of the boycott?

Mr. BRIERATHER. Well, not from the very beginning, sir.

Mr. KENNEDY. When did you first take on a position?

Mr. BRIERATHER. Approximately the middle of June of 1955.

Mr. KENNEDY. When did the boycott begin?

Mr. BRIERATHER. Well, there were certain movements toward the boycott which may have started when four labor leaders in the city of Milwaukee issued a statement asking people to boycott Kohler products; and, subsequently, the State CIO organization passed a resolution asking for the same thing. The international union took a few steps toward that, and it wasn't until a membership meeting sometime in March of 1955 when the local union actually began talking about pursuing a boycott campaign.

(At this point, the following members were present: Senators McClellan, Mundt, Curtis, and Goldwater.)

Mr. KENNEDY. Were you the first official head of the boycott campaign?

Mr. BRIERATHER. Yes; I would say so.

Mr. KENNEDY. And you assumed your duties and responsibilities in about June of 1955?

Mr. BRIERATHER. Yes, sir.

Mr. KENNEDY. What compensation do you receive from the union for the work that you do?

Mr. BRIERATHER. I receive strike assistance, the same as anyone else.

Mr. KENNEDY. How much does that amount to?

Mr. BRIERATHER. \$60 a week, sir.

Mr. KENNEDY. \$60 a week you receive?

Mr. BRIERATHER. Yes, sir.

Mr. KENNEDY. Do you receive anything else extra from the union?

Mr. BRIERATHER. Well, if I am sent out of town, I get my expenses paid, sir.

Mr. KENNEDY. Your actual expenses, or do you get a certain amount of expenses?

Mr. BRIERATHER. Well, for the greatest amount of time, I receive the actual expenses. However, I do receive an expense allowance.

Mr. KENNEDY. How much is the expense allowance, if you are sent out of town?

Mr. BRIERATHER. \$13 per day, sir.

Mr. KENNEDY. \$13 a day?

Mr. BRIERATHER. Yes, sir.

Mr. KENNEDY. And you receive \$60 a week from the union in strike assistance?

Mr. BRIERATHER. That is correct, sir.

Mr. KENNEDY. How many of you are there still on strike who receive strike assistance, approximately?

Mr. BRIERATHER. There are approximately somewhere between 200 and 250, sir.

Mr. KENNEDY. And you have been receiving this strike assistance for this period of 4 years, now?

Mr. BRIERATHER. Well, yes. I received my first strike assistance, probably, in June of 1954.

Mr. KENNEDY. So, it is about 3½ years that you have been receiving \$60 a week?

Mr. BRIERATHER. Yes, sir.

Mr. KENNEDY. Do you have any other outside compensation?

Mr. BRIERATHER. No, sir.

Mr. KENNEDY. You are getting by on the \$60 a week?

Mr. BRIERATHER. Well, just; yes.

Mr. KENNEDY. As head of the boycott campaign, you do not receive any extra money for that?

Mr. BRIERATHER. No, sir.

Mr. KENNEDY. What are your responsibilities and duties as head of the boycott campaign, and what steps are you taking, what are you attempting to achieve from the boycott? Would you tell the committee that?

Mr. BRIERATHER. At the present time, sir?

Mr. KENNEDY. Well, at the beginning, and trace it through, if you can do it briefly.

Mr. BRIERATHER. I would say when I was appointed as the head of the boycott, I was called the——

Mr. KENNEDY. Who appointed you, first?

Mr. BRIERATHER. Well, the local-union strike committee, and, of course, this was after some discussion between them and the international union, sir.

Senator CURTIS. Between them and who?

Mr. KENNEDY. The international union.

Mr. BRIERATHER. I was instructed to organize a nationwide boycott campaign. I might say right here, sir, that I was really at a loss on how to proceed to it. The first efforts were feeble, and the method of trial and error rather than anything else. The first efforts toward a boycott campaign came when we established a committee for following trucks. This really was a big flop, and it didn't take very long and we discontinued it.

Mr. KENNEDY. What were you doing following the trucks? What does that mean?

Mr. BRIERATHER. First of all, we didn't know exactly where Kohler products would be going to, and we thought this would be one method so we could find out and start a publicity campaign in that particular area.

Mr. KENNEDY. What would you do; assign people to follow the trucks of the Kohler Co.?

Mr. BRIERATHER. Yes. They went with literature and a few signs, and were told to distribute the literature when they got there, if there was anybody there to take it.

Mr. KENNEDY. When the trucks stopped, would they get out and start to picket the place?

Mr. BRIERATHER. I suppose in a few instances it did, but it was very ineffective. We discontinued it. This whole thing lasted probably 60 days, and then we stopped it.

Mr. KENNEDY. Was there some effort to induce the drivers of the trucks to turn back and not to carry the products of the Kohler Co.?

Mr. BRIERATHER. I think that was an impossibility. We couldn't induce them to stop crossing our picket lines at the Kohler plant, and it was highly unlikely that they wouldn't cross the picket line there if we would set one up.

Mr. KENNEDY. Did you ever make any effort or your drivers make any efforts to force the trucks off the side of the road so they wouldn't carry the products?

Mr. BRIERATHER. Not to my knowledge.

Mr. KENNEDY. Have you heard any reports on that?

Mr. BRIERATHER. Not from our people.

Mr. KENNEDY. Did you hear reports from other people?

Mr. BRIERATHER. I understand there were reports made to the press about that.

Mr. KENNEDY. When it was reported to the press, did you take any steps to investigate and find out if this was being done?

Mr. BRIERATHER. Yes.

Mr. KENNEDY. What did you find out?

Mr. BRIERATHER. We were told they made no attempt to do this. They were instructed not to. Their instructions were merely to follow these trucks. In fact, on several occasions they were followed by squad cars, and actually escorted. They were told to maintain a different distance.

Mr. KENNEDY. If the purpose was not to intimidate the drivers, and you did not intend to picket the establishments that took Kohler products, what was the purpose of following the trucks?

Mr. BRIERATHER. Well, mainly to find out where the Kohler products were going and attempt to pass out leaflets at the time to advertise the fact that Kohler products are sold here and we asked them not to—asked everyone not to buy the products.

Mr. KENNEDY. Do you mean just to hand out leaflets at the place of business which was buying these products?

Mr. BRIERATHER. That was our purpose, yes, sir.

Mr. KENNEDY. Doesn't that amount to the same thing as a picket line or trying to stop people from using a place of business which handles Kohler products?

Doesn't that amount to a picket line?

(At this point, Senator Goldwater withdrew from the hearing room.)

Mr. BRIERATHER. Well, I wouldn't know, sir. We only had probably 2 or 3 people, and I wouldn't consider that really a picket line. We tried to use it as a form of advertising.

Mr. KENNEDY. Your purpose was to try to keep people out of the businesses that were handling Kohler products, was it not? That was the reason. You didn't want to just find out where the Kohler Co. was selling their products. You wanted to keep the people out of the companies that were buying the products.

Mr. BRIERATHER. No, sir, we wanted the people, whether they went in or out, not to buy Kohler products.

Mr. KENNEDY. What do you care where they sold the products if you weren't going to try to keep the people from going into those companies?

Why did you want that information?

Mr. BRIERATHER. So we knew where to conduct an advertising campaign. We really didn't know exactly what we were looking for. We found out it was useless and discontinued it. The purpose was faulty to begin with, and it didn't pay off. It was much too expensive.

Mr. KENNEDY. I think that the record shows, at least from what we understand, and I expect to have some evidence and information on it, that, No. 1, there was some attempt at least to intimidate the drivers, and No. 2, once they followed the trucks to these establishments, to maintain a boycott of the establishment that was buying the Kohler products by establishing either a picket line or handing out these pamphlets at the place of business.

Mr. BRIERATHER. Well, sir, if we were intending to do that, we would have maintained a picket line at these places.

Mr. KENNEDY. O. K. Well, continue.

Beyond the follow-the-truck campaign, what else did you do?

Mr. BRIERATHER. Well, when that flopped, we thought of another gimmick, so to speak, of organizing boycott caravans. We made a bunch of three-cornered carton signs and devised a sign "Don't buy Kohler. It is made by scabs and strike breakers."

We would fill up about 25 carloads full of people and we would travel to the various communities, leading communities, like Milwaukee, Racine, Kenosha, Appleton, Manitowoc, and a few others, and we tried to get this boycott caravan to enter the town at the key shop-

ping hours when there were as many people as we could possibly reach who would be there in the shopping centers.

We would parade down Main Street with the car top caravans carrying the signs, and as they would be doing that, the strikers would be out on the streets handing out special leaflets and handbills, urging people not to buy Kohler products. We designed one specific leaflet entitled "Please help my Daddy win the strike," and there was a picture of a striker's little girl in front, and it was a plea to the people not to buy Kohler products on the back.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. About how many people would make up one of these caravans?

Mr. BRIERATHER. Well, we tried to get as many people in the 20 or 25 cars as we could possibly round up. In some instances——

Senator CURTIS. Twenty or twenty-five cars?

Mr. BRIERATHER. Yes.

Senator CURTIS. Who provided the cars?

Mr. BRIERATHER. Well, the strikers themselves, sir.

Senator CURTIS. They were expected to pay that out of their \$60 a week strike allowance?

Mr. BRIERATHER. We provided the gasoline, and by "we" I mean the international union for driving purposes.

Senator CURTIS. Where did you go with the caravan of 20 or 25 cars?

Mr. BRIERATHER. Well, the largest caravan, I believe, went to Milwaukee.

Senator CURTIS. Where did you go in Milwaukee?

Mr. BRIERATHER. Down Wisconsin Avenue and a few other shopping centers down there, Wisconsin Avenue being the Main Street of Milwaukee.

Senator CURTIS. Did you go near any particular business in Milwaukee?

Mr. BRIERATHER. No, not with the boycott caravan, no. Not to my knowledge.

Senator CURTIS. Did you do any picketing?

Mr. BRIERATHER. No, sir.

Senator CURTIS. You never have done any picketing in this boycott campaign?

Mr. BRIERATHER. Not with the boycott caravan, no.

Senator CURTIS. I mean any other way.

Mr. BRIERATHER. There were a few instances, yes. For instance, we had established for a while some pickets in front of the Kohler Co. showrooms, which were actually owned by the Kohler Co., such as New York and Chicago, but we have made no going effort on that either.

Senator CURTIS. Did you ever picket any place else?

Mr. BRIERATHER. Yes. We picketed the Koepsell plant in Sheboygan.

Senator CURTIS. What plant?

Mr. BRIERATHER. Koepsell Co., a distributor of Kohler products, one or two times, that is about all.

Senator CURTIS. Where else?

Mr. BRIERATHER. Down in Milwaukee I understand we picketed one or two places.

Senator CURTIS. It was your business to organize the picketing and the caravans and provide the placards and banners and things, wasn't it?

Mr. BRIERATHER. Well, sir, most of this—the cartop caravans were organized just about as my first effort. The following of trucks was done before I was there. But the main duty that I had at the beginning was to set up an office in Sheboygan. I did so and we set up a large mailing list, and formulated——

Senator CURTIS. My question is: Your title was the boycott coordinator, wasn't it?

Mr. BRIERATHER. Yes.

Senator CURTIS. Wasn't it your responsibility to organize the boycott activities?

Mr. BRIERATHER. More or less so, yes.

Senator CURTIS. Who was your immediate superior?

Mr. BRIERATHER. Well, I would say that I had two superiors. The strike committee was one and I am also responsible to Donald Rand at the present time. I wasn't at that time.

Senator CURTIS. To Donald Rand, who has already testified here?

Mr. BRIERATHER. Yes, sir. I wasn't at that time. He did not enter the picture in Sheboygan until November of 1955, sir, in regard to this.

Senator CURTIS. You became boycott coordinator before he came in?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Why did he come in? Wasn't it going pretty good?

Mr. BRIERATHER. Well, sir, as I explained, we set up a terrific mailing program. We tried to obtain as many mailing lists from labor organizations as we possibly could. We obtained a mailing list from all A. F. of L. central labor councils, from all UAW locals, from the steel union locals, and as many as we could possibly reach. We began an extensive mailing program. As a result of this type of publicity, the international union decided that they ought to use personal contact to support the publicity and that is when they assigned Donald Rand as my superior and also to head up the boycott campaign, sir.

Senator CURTIS. Now, when you would go some place with a caravan or any other means, who would be the people riding in those cars?

Mr. BRIERATHER. Kohler strikers, sir, and their families, often.

Senator CURTIS. Anybody else?

Mr. BRIERATHER. No, sir, not to my knowledge. Occasionally maybe an international representative might have gone along, but he——

Senator CURTIS. Who were some of the international representatives that went along?

Mr. BRIERATHER. Donald Rand might have went along with one of those.

Senator CURTIS. Well, did he?

Mr. BRIERATHER. I couldn't say really yes or no, sir.

Senator CURTIS. Who else of the international representatives?

Mr. BRIERATHER. Well, Robert Treuer, sir.

Senator CURTIS. Robert Treuer and Donald Rand. Who else?

Mr. BRIERATHER. Well, I would only be guessing from here on in. These are the two people that I would say went on one or more of these trips.

Senator CURTIS. No other international representatives?

Mr. BRIERATHER. Not to my knowledge, sir.

Senator MUNDT. Will the Senator yield for one question?

Senator CURTIS. Yes.

Senator MUNDT. When you would go into a town with these caravans, there would be about 20 or 25 cars, you would do what, drive up and down the business thoroughfares and around the industrial areas with your cars, and would you have loud-speaking equipment?

Mr. BRIERATHER. No, we never had loud-speaking equipment. Generally we had to make arrangements with the law enforcement officials of the community and they would provide for us to actually parade down the streets. They would give us the proper right of way, sir.

Senator MUNDT. The point I was leading to was simply a matter of curiosity, whether or not you ever ran into any places where they might have city ordinances where you have to have a license to have a parade. Sometimes even out campaigning, when you are out on a political "squawkbox" campaigning, you run into some communities where you either have to have a permit to set up to give your speech or parade or you can't do it at all.

I wondered whether in your experience in these caravans you ever ran into that type of situation.

Mr. BRIERATHER. By and large we always received the cooperation of the city officials. We had no trouble at all along these lines. There may have been one or two cases. Maybe over in Appelton—as I remember, one of these cities over on Lake Winnebago, they objected to us coming in to town in that manner, although I believe that they allowed us to distribute literature but didn't allow us to parade with the cars.

But other than that, generally we received their cooperation and had their help.

Senator CURTIS. Who provided the literature?

Mr. BRIERATHER. The international union, sir.

We have no money to.

Senator CURTIS. Who provided the signs that the men get?

Mr. BRIERATHER. They did, sir. They paid for it.

Senator CURTIS. Now, when you go on a caravan, would that be just a 1-day trip?

Mr. BRIERATHER. Yes.

Senator CURTIS. So not very much picketing was done in connection with the caravans?

Mr. BRIERATHER. No, sir.

Senator CURTIS. When you did picket it would be longer than a day's duration, wouldn't it?

Mr. BRIERATHER. I don't believe so, sir.

Senator CURTIS. You don't think so?

Mr. BRIERATHER. No, with the exception of where we picketed the Kohler showrooms, like, say, in New York and down at the Tribune Building in Chicago. That wasn't really done under my direction.

Senator CURTIS. How long did that picket line run, down in Chicago?

Mr. BRIERATHER. For quite some time, sir.

Senator CURTIS. About how long?

Mr. BRIERATHER. It could be a year. I would be guessing at that, Senator.

Senator CURTIS. Who marched in that picket line?

(The witness conferred with his counsel.)

Mr. BRIERATHER. I beg your pardon, sir?

Senator CURTIS. Who marched in that picket line?

Mr. BRIERATHER. We generally got two unemployed UAW workers, or any one that was unemployed.

They were paid pickets, sir.

Senator CURTIS. Who paid for that?

Mr. BRIERATHER. The international union, sir.

Senator CURTIS. Where else did you have paid pickets besides in Chicago?

Mr. BRIERATHER. In New York and Los Angeles, sir.

Senator CURTIS. In New York? Where did you picket in New York?

Mr. BRIERATHER. The Kohler showrooms on Park Avenue, I believe.

Senator CURTIS. Who did you picket in Los Angeles?

Mr. BRIERATHER. The Kohler showrooms out there, but I wouldn't know what street it was on.

Senator CURTIS. Did you ever picket any business other than the Kohler showrooms?

Mr. BRIERATHER. Yes, sir. We picketed the Hartshorn Bros. Co.

Senator CURTIS. The what?

Mr. BRIERATHER. Hartshorn somewhere in the Los Angeles area.

Senator CURTIS. Hartshorn Bros.? What is their business?

Mr. BRIERATHER. They are a plumbing supplier, sir.

Senator CURTIS. Where are they located in Los Angeles?

Mr. BRIERATHER. Well, sir, I couldn't provide that information. I believe this is one of the cases where we consented to a cease and desist order with the NLRB.

Senator CURTIS. Were you ever out to Los Angeles in connection with the boycott?

Mr. BRIERATHER. No, sir.

Senator CURTIS. Or any phase of it?

Mr. BRIERATHER. No, sir.

Senator CURTIS. They were merchants not connected with Kohler Co., is that right?

Mr. BRIERATHER. I believe that is right, sir.

Senator CURTIS. Did they have any labor trouble of their own?

Mr. BRIERATHER. I couldn't answer that, sir.

(At this point, Senator Goldwater entered the hearing room.)

Senator MUNDT. Will the Senator yield?

Senator CURTIS. Yes, sir.

Senator MUNDT. Mr. Brierather, did you have anything to do with the picketing of that paper company in Milwaukee that has been the subject of some discussion between our counsel and me in these hearings?

Mr. BRIERATHER. No, sir. This was not a part of our boycott program, even though it was interpreted as such. It wasn't a part of the boycott program such as I tried to organize, sir.

Senator MUNDT. It was not under your jurisdiction, that particular strike?

Mr. BRIERATHER. No, sir.

Senator MUNDT. Mr. Chairman, during the past few days, I have been going over this testimony concerning this particular element of discussion.

You will recall that Mr. Rauh, I think it was last Thursday, went into this in some detail and submitted some items for the record, including, I believe, a discussion of the NLRB cease and desist order and the entering of a consent decree by the 7th Circuit Court of Appeals against the UAW. After rereading the testimony, I am inclined to believe that Mr. Rauh's statements did not clarify the particular point at issue that I had in mind.

In order to get that clarified, I would like to suggest to the chairman that he write a letter to the Chairman of the National Labor Relations Board, requesting him or some qualified representative of the NLRB who has firsthand information on this subject, to appear before our committee and to bring with him the relevant public NLRB documents and records involved in this particular case, which is identified as "No 13 CC 110118, NLRB 267."

I would suggest that not immediately but at the conclusion of whatever testimony we are going to take on this subject of boycotts, that we ask the NLRB representative to appear before the committee with those documents and see if we can't finalize that phase of the discussion.

Would that be agreeable?

The CHAIRMAN. Senator Mundt, if you will prepare the letter, you are familiar with the details and information which you want, and submit it to the Chair, I will be very glad to cooperate with you.

Is there any further questioning? Senator Curtis.

Senator CURTIS. This Hartshorn Bros. at Bellflower, Calif., how long did that picketing last?

Mr. BRIERATHER. I understand a week or two, sir. I wasn't too familiar with it at the time. In fact, I heard about it after the fact, so to speak.

Senator CURTIS. Representatives of the international were doing part of this? You weren't running the whole show all over the Nation, were you?

Mr. BRIERATHER. No, sir.

Senator CURTIS. There was a great deal of boycotting going on besides what you were doing?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Those pickets at Hartshorn, were they 833 strikers?

Mr. BRIERATHER. No, they were not, sir.

Senator CURTIS. Who were they?

Mr. BRIERATHER. Well, to the best of my knowledge they were unemployed workers. They may have been members of the UAW, sir.

Senator CURTIS. They were paid by UAW?

Mr. BRIERATHER. Yes, sir, to my knowledge.

Senator CURTIS. Isn't it a fact that Kohler strikers did picket several businesses other than Kohler around Wisconsin? Isn't that right?

Mr. BRIERATHER. They might have, sir. I don't recall.

Senator CURTIS. All right. But you were the coordinator of this whole program, weren't you?

Mr. BRIERATHER. Yes, but under my direction no one ever picketed any one of these. It was not part of my function, sir.

Senator CURTIS. But you would get reports back as to how the boycott was going, wouldn't you?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Well, now, isn't it a fact that Kohler strikers picketed the United Plumbing & Heating Supply Co. in Milwaukee, Wis.?

Mr. BRIERATHER. Yes. This I mentioned before, that there may have been a few establishments in Milwaukee that were picketed.

Senator CURTIS. They did picket there?

Mr. BRIERATHER. Yes, sir, but we gave it up as a bad job. It had no effect on anyone.

Senator CURTIS. All right. The Kohler strikers picket the Cordes Supply Co. in Milwaukee, Wis.?

Mr. BRIERATHER. I assume they did. I couldn't say "yes" or "no" from my own information.

Senator CURTIS. You mean by that you didn't see them?

Mr. BRIERATHER. That is correct.

Senator CURTIS. But you did get some reports back that they did?

Mr. BRIERATHER. Yes, I got reports back. Whether it was the Cordes Co., I don't know, but that they picketed.

Senator CURTIS. Did Kohler strikers picket the Unique Polishing Co. at Saukville, Wis.?

Mr. BRIERATHER. I couldn't say "yes" or "no" to that. They could have.

Senator CURTIS. They could have?

Mr. BRIERATHER. Yes. I don't recall.

Senator CURTIS. Actually, you mean you didn't see them?

Mr. BRIERATHER. That is right, and this is the first time I heard about it.

Senator CURTIS. Did you hear anything about it?

Mr. BRIERATHER. No, sir.

Senator CURTIS. You didn't get any reports about it?

Mr. BRIERATHER. No, sir.

Senator CURTIS. How many people did you have organizing picketing in Wisconsin, if you were the coordinator and you didn't know about it?

Mr. BRIERATHER. At the beginning, I don't believe that anybody was actually organizing. I became the first organizer of the boycott, and before it was just a hit and miss affair.

Everybody was trying to do——

Senator CURTIS. After you got going, how many people did you have working on it?

Mr. BRIERATHER. We had no pickets, as far as Kohler strikers were concerned.

Senator CURTIS. No, I mean how many people did you have working on the boycott?

Mr. BRIERATHER. Well, it gradually got to maybe about 25 of them, which were in and out of our office.

Senator CURTIS. You had an office of about 25 people?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. By that number, you do not mean the number that went out and did the picketing or follow trucks, but the people who were in your office, is that correct?

Mr. BRIERATHER. Yes, they worked in and out. They actually went out for contact work, sir.

Senator CURTIS. Now, did or did not the strikers or the UAW picket the Rupert Plumbing & Appliance Co. in Milwaukee?

Mr. BRIERATHER. They may have, sir. I have no knowledge of it.

Senator CURTIS. Again, do you mean—

Mr. BRIERATHER. It might help by stating when this was supposed to have happened, sir. If it was before July 1, 1955, I would have no record.

Senator CURTIS. Any time during the time that you were coordinator?

Mr. BRIERATHER. I have no knowledge of it, sir.

Senator CURTIS. I notice you are very careful about not testifying about things you don't have any knowledge about.

Mr. BRIERATHER. I really don't know, sir. They may have. I don't think we have picketed—

Senator CURTIS. You testified with considerable clarity this morning about happenings 24 years ago when you weren't even in the community, you were working 20 miles from there. Do you have any information at all—

The CHAIRMAN. That is a rollcall vote. The committee will have to be in recess until the Senators can go to the Chamber and vote and return.

(Whereupon, at 3:07 p. m. a recess was taken, with the following members present: Senators McClellan, Mundt, Curtis, and Goldwater.)

The CHAIRMAN. The committee will come to order.

(Members of the committee present at the convening of the session were: Senators McClellan, Mundt, and Curtis.)

Senator CURTIS. Now, in reference to your duties as strike coordinator, did you have authority to hire help?

Mr. BRIERATHER. No, sir.

Senator CURTIS. Did you have anything to do with okaying bills for payment?

Mr. BRIERATHER.. Well, only to the extent that my okay would mean to whoever was paying or making out the checks of the international union, that the expenditure was justified.

Senator CURTIS. Would this office, you say you had sometimes 25 people in and out of there, would they okay the bills that were incurred all over in these boycott efforts or just locally?

Mr. BRIERATHER. I would okay only what was incurred in the office and locally, sir.

Senator CURTIS. So whatever expense was incurred in some other State, you wouldn't be okaying that bill?

Mr. BRIERATHER. No, sir.

Senator CURTIS. Who did that, do you know?

Mr. BRIERATHER. Well, I assume, or I believe that Don Rand did. He was the guy that authorized the expenditures, and of course he had to justify that to his superiors.

Senator CURTIS. Now, where did he operate from in his okay of bills incurred in the boycott? Would he handle that out of the office that you were connected with?

Mr. BRIERATHIER. Well, he was in Sheboygan from about November 1955, November 1, or within a few days of that, and he was there approximately for 1 year working actually out of that office.

Senator CURTIS. So while he was there, that is where he would okay the expenditures?

Mr. BRIERATHIER. Oh, yes.

Senator CURTIS. Now, did they pay you anything besides your strike assistance when you were not out of town?

Mr. BRIERATHIER. No, sir. Well, yes, sir. They provided gasoline for me to go back and forth to the office and they provided for me insurance coverage, which they do for everyone on strike assistance. This was in addition to the \$60 a week.

Senator CURTIS. Now, did you have any pickets at the Rupert Plumbing & Appliance Co. in Milwaukee, Wis.?

Mr. BRIERATHIER. We most likely had, sir.

Senator CURTIS. Although you didn't see them, you know that they were there?

Mr. BRIERATHIER. That is correct. There weren't too many of these instances. It was so ineffective that we dropped it so quickly that it just didn't pay off to have those pickets.

Senator CURTIS. How long did you try it?

Mr. BRIERATHIER. I would say a period of a month or two, sir.

Senator CURTIS. Did you have any pickets at the F. R. Dingle Co. in Milwaukee?

Mr. BRIERATHIER. Yes, sir.

Senator CURTIS. How many pickets did you have there?

Mr. BRIERATHIER. I wouldn't know, sir.

Senator CURTIS. Do you know over how long a time?

Mr. BRIERATHIER. It wasn't very long, sir.

Senator CURTIS. Well, now, when you would have pickets there, is a union member belonging to any union anywhere supposed to go in and out of that place of business?

Mr. BRIERATHIER. Well, we expected them not to, sir.

Senator CURTIS. You expected them not to?

Mr. BRIERATHIER. Yes, sir.

Senator CURTIS. Well, you say it didn't become effective, but if it did, what would happen to the jobs of the people working inside?

Mr. BRIERATHIER. What would happen to the jobs, sir?

Senator CURTIS. Yes. Now, suppose one of these plumbing houses that I have mentioned, that you are picketing there had been successful, what would happen to the employees of that company?

Mr. BRIERATHIER. They most likely would have been out of a job, sir, but this is not what happened. The picketing was not effective.

Senator CURTIS. But that is what you were trying to do, was to make it successful?

Mr. BRIERATHIER. I imagine we were, sir.

Senator CURTIS. They wouldn't have gotten any strike assistance, would they?

Mr. BRIERATHIER. Well, they wouldn't belong to a union in the first place.

Senator CURTIS. If they didn't, or suppose they did, if they belonged to some union other than yours, you wouldn't pay them any strike assistance, would you?

Mr. BRIERATHER. They wouldn't be out on strike. We wouldn't know.

Senator CURTIS. Strike assistance is something they get when they are out on strike, and these people would be just out of a job.

If your picketing and your boycotting were successful of one of these business houses, what would happen to the owner of the business? Would it close the business out?

Mr. BRIERATHER. There are many good union-made brands on the market, sir, and it wasn't that we were picketing the entire plumbing-ware industry. We were only asking and trying to persuade people not to buy Kohler products.

There are Crane products and American Standard, which are all union made, and all very good.

Senator CURTIS. But some of these small-business men no doubt have money invested in Kohler inventory, and if you wouldn't let them sell it, their property becomes worthless if they can't sell it, and it becomes outdated and it would be of lesser value if they could sell it at a later time.

There may be some of these businesses and some of them may be good size, but many of the people affected by this were small- or medium-sized businesses, and some of them may have advertised Kohler products for years, and all of their assets and their future, as well as that of their employees, was tied up in the distribution that they had built up.

Your objective was to stop them from selling Kohler products, is that right?

Mr. BRIERATHER. Our objective was to persuade him to switch to another brand and stop selling Kohler products, yes, sir.

Senator CURTIS. But not to sell Kohler products, and if he sold Kohler products, you had some pickets out there that in effect said at least to a lot of people in the country, "Don't go in there and buy," is that right?

Mr. BRIERATHER. Don't go in there and everywhere else either to buy Kohler products, and so we were advertising in effect that Kohler products were unfair, and that by purchasing Kohler products they were aiding the Kohler Co. in its fight against its workers.

Senator CURTIS. I am very much interested in this subject of boycotts, because by your testimony you are taking this conflict to people far removed from Kohler. They are not stockholders in Kohler, and the workers are not Kohler employees. They are citizens of these various communities, and they are made the victim of this program you carry on.

Did you have any pickets at the Neis Co. in West Alice, Wis.?

Mr. BRIERATHER. I imagine we did, sir, and I don't know for sure.

As I stated before, that was only for a short period of time, and I believe that this was being conducted before I became the boycott coordinator, and it flopped miserably.

Senator CURTIS. But is this a fair interpretation of your answer, that you were not there and you did not see it but it is your understanding that they did?

Mr. BRIERATHER. They might have, and I could not say one way or the other, sir.

Senator CURTIS. How about this: Did you have pickets at the Plummers' Supply Co., at Fond du Lac, Wis.?

Mr. BRIERATHER. I don't recall that one at all, sir. That is Plummers' Supply, in Fond du Lac?

Senator CURTIS. Yes.

Mr. BRIERATHER. I don't recall.

Senator CURTIS. Do you recall having any pickets in Fond du Lac, Wis., in connection with the boycott?

Mr. BRIERATHER. No, sir.

Senator CURTIS. How about the Southside Hardware Co., in Sheboygan? That was right there in Sheboygan.

Mr. BRIERATHER. No, I don't believe we ever had pickets at the Southside Hardware.

Senator CURTIS. You are quite sure about that?

Mr. BRIERATHER. I am quite sure about that, I know that we picketed the Koepsell Co., the distributor of the Kohler Co., in Sheboygan, but I don't believe that we picketed the Southside Hardware Co.

Senator CURTIS. Did you ever have pickets at the George W. White Co., Inc., in Oshkosh, Wis.?

Mr. BRIERATHER. I wouldn't know, not to my knowledge, sir.

Senator CURTIS. Would you deny that there were pickets?

Mr. BRIERATHER. Oh, no; no, I wouldn't.

Senator CURTIS. You would not deny that there might have been pickets at the Southside Hardware, in Sheboygan?

Mr. BRIERATHER. I could supply that information, and I could not categorically deny it, that we didn't, or did not have pickets at Southside Hardware.

Senator CURTIS. Would you have any records to ascertain where you had pickets?

Mr. BRIERATHER. No, sir.

Senator CURTIS. Who would know?

Mr. BRIERATHER. Well, probably some member of the strike committee.

Senator CURTIS. You were a member of the strike committee?

Mr. BRIERATHER. Yes, but even at that I could not answer these questions.

Senator CURTIS. Now all of these international representatives attended the strike committee meetings, if they were in town?

Mr. BRIERATHER. I don't know if there was any in town during 1955, and maybe Bob Burkhart was there occasionally, and Don Rand would come in occasionally, and if they were in town and we had a strike committee meeting, invariably they would drop in; sir.

Senator CURTIS. But your superior after he came in was Donald Rand?

Mr. BRIERATHER. Donald Rand, and the strike committee, and I would like to think that we were all working together as a team, and he rarely gave me orders, and it was generally by agreement that we proceeded with our campaign, sir.

Senator CURTIS. Did you ever have any pickets at the A. Y. McDonald Manufacturing Co., in Sioux Falls, S. Dak.?

Mr. BRIERATHER. Not that I know of, sir.

Senator CURTIS. Well, what do you mean by that? Do you deny that you had some there?

Mr. BRIERATHER. I believe that I could deny we had pickets at A. Y. McDonald, yes. I have never received a report on the fact we had pickets there, and I know that we did not order it out of Sheboygan, nor was such an order ever given within my hearing.

Senator CURTIS. Now I think some of these questions we will have to ask Mr. Rand, because according to your testimony he was your superior, and he O. K.'d the bills.

Senator MUNDT. Would the Senator yield?

Senator CURTIS. Briefly.

Senator MUNDT. Since the name of my fair State has been brought into the hearings, is it not correct that this A. Y. McDonald Co. is one of the places where you sent these followers, or whatever you called them, these people who followed the delivery trucks, and I believe the record shows that you followed them to Sioux Falls, S. Dak., with some literature.

They attempted to distribute the literature there and did not find many takers and went back.

Mr. BRIERATHER. I was under the impression that the farthest our guys went was to Fort Dodge, Iowa, on one occasion. I thought that was the largest radius they ever covered.

Senator MUNDT. I am not sure that Sioux Falls, S. Dak., would be any further from Sheboygan than Fort Dodge, Iowa. It is about the same general periphery, but I believe that is the record as far as South Dakota is concerned.

Mr. BRIERATHER. It is possible.

Senator CURTIS. Now part of your functions as boycott coordinator included the tracing of shipments of Kohlerware from the Kohler plant to its designation, is that not true?

Mr. BRIERATHER. If we could, sir.

(At this point the following members were present: Senators McClellan, Mundt, Curtis, and Goldwater.)

Senator CURTIS. What would these signs say that the international union should provide? That is, these signs that people carried, the placards?

Mr. BRIERATHER. This is the sign that we generally used. It is the sign that was made by the Kohler strikers themselves through a silk screen process. It is "Buy union for quality and craftsmanship. Boycott Kohler. Plumbing ware and engines made by strikebreakers."

Senator CURTIS. Did you ever have any that referred to the workers there as scabs?

Mr. BRIERATHER. Scabs and strikebreakers? I believe that was included on the signs of the boycott caravans.

Senator CURTIS. Did you carry placards of that type when you picketed third parties?

Mr. BRIERATHER. Third parties, sir?

Senator CURTIS. Yes, like a distributor or a plumbing house.

Mr. BRIERATHER. I know that we did have some signs. I don't recall what was on them, sir.

Senator CURTIS. Mr. Peter Gasser and Elmer Gross are Kohler strikers, aren't they?

Mr. BRIERATHER. That is true, sir.

Senator CURTIS. They were active in the boycott program in the Chicago area, weren't they?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Do Gasser and Gross work on the boycott program under your supervision?

Mr. BRIERATHER. Yes, sir; more or less so.

Senator CURTIS. What instructions have you given them relative to promoting the boycott?

Mr. BRIERATHER. Well, the instructions that I gave, or that we gave to all of the boycott "reps" was to personally contact as many people as possible among the ranks of organized labor and also in the building industry, and also owners of building projects around in their area.

Senator CURTIS. In other words, you directed them to make a personal contact with contractors—

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. With plumbers?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Plumbing contractors?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. And the person who was building the building?

Mr. BRIERATHER. Yes, sir; and architects.

Senator CURTIS. Was that effective?

Mr. BRIERATHER. I believe it was; sir.

Senator CURTIS. If someone was building a home, and if these people under your directions said, "I would suggest you not use Kohler products," they probably wouldn't do it, would they?

Mr. BRIERATHER. Well, we didn't quite put it that way, sir. We tried to get them to sympathize with us so that they wouldn't purchase Kohler products.

Senator CURTIS. But you let them know you didn't want them to purchase Kohler products, didn't you?

Mr. BRIERATHER. We let them know that we would like them not to purchase Kohler products; yes.

Senator CURTIS. And I think most of these people read the papers over the past years, and they knew that there was sometimes violence and trouble, delays, when these industrial disputes arise. I can understand when you say they were quite effective.

The purpose of the boycott was to either stop or at least decrease the sales of Kohler products, is that right?

Mr. BRIERATHER. That is correct, sir.

Senator CURTIS. And you wanted to do that not only by the sale by Kohler Co. to its distributors, but your efforts extended to stopping the sales by all other people, didn't they?

Mr. BRIERATHER. Yes, sir. We tried to reach the broadest amount of people possible, anybody that might be a consumer and a purchaser of Kohler products.

Senator CURTIS. You seem like an individual of good intentions. How do you feel about carrying this boycott to neutral persons?

(At this point, Senator McClellan withdrew from the hearing room.)

Mr. BRIERATHER. I feel very badly about the entire idea of a boycott, sir. I was among those that was not in favor of a boycott until well over a year had passed before the strike—

Senator CURTIS. Who convinced you that that ought to be done?

Mr. BRIERATHER. Well, the Kohler Co. actually convinced us.

Senator CURTIS. No. Who were some of the people of your strike committee that argued for a boycott?

Mr. BRIERATHER. There was no one that really argued for it. We were all in the same boat, sir.

But we finally decided that the Kohler Co. had left us no other choice.

Senator CURTIS. Who were some of the people that urged it first?

Mr. BRIERATHER. Urged it, sir?

Senator CURTIS. Yes.

Mr. BRIERATHER. Well, the State CIO organization, for instance, passing a resolution; the four labor leaders that made the statement, and others, too. A boycott, in some respects, becomes an automatic weapon of organized labor at the very beginning of a strike, sir. As soon as a strike is bound, the products become unfair, and there is a certain amount of automatic boycott with the beginning of each strike, sir.

Senator CURTIS. Who were the four leaders that you referred to?

Mr. BRIERATHER. Well, I believe it was Charles Schultz and Ross Baum—

Senator CURTIS. Where did Charles Schultz live?

Mr. BRIERATHER. In Milwaukee, sir.

Senator CURTIS. He is a State director of the CIO?

Mr. BRIERATHER. The president, I believe.

Senator CURTIS. Who was the next one?

Mr. BRIERATHER. Ross Baum, secretary-treasurer of the CIO.

Senator CURTIS. That is two of them. Who are the others?

(The witness conferred with his counsel.)

Mr. BRIERATHER. I couldn't say offhand, sir. I could find out here.

Senator MUNDT. You may supply them for the record.

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. When Mr. Rand was testifying, he made reference to a letter addressed to you from Ray Vicker, a writer for the Wall Street Journal. Have you the copy of your letter to Vicker which he replied to?

Mr. BRIERATHER. No, sir, I haven't got the copy. This was a personal letter from me to him. I was in attendance at the time that Ray Vicker interviewed Donald Rand, and I was there when he talked about this situation.

Senator CURTIS. But you don't have a copy of the letter?

Mr. BRIERATHER. No, sir. I am sorry I can't provide one.

Senator CURTIS. Did you make a copy at the time?

Mr. BRIERATHER. I may have. I wrote this at home. I may have made a copy. I don't know.

Senator CURTIS. You do your own typing, do you?

Mr. BRIERATHER. Well, I can, yes.

(At this point, Senator McClellan entered the hearing room.)

Senator CURTIS. You have participated in policy meetings and decisions relative to the boycott in Detroit, have you not?

Mr. BRIERATHER. I was present at a few of those meetings.

Senator CURTIS. Was Rand and Ray Majerus, and other boycott representatives present?

Mr. BRIERATHER. Well, the entire paid boycott staff was there, yes. Senator CURTIS. About how many were there?

Mr. BRIERATHER. I would say 14 or 15, sir.

Senator CURTIS. 14 or 15.

Name as many of them as you can remember. I have mentioned Rand and Majerus. They were there.

Mr. BRIERATHER. Fred Askoff, John Archambault, Rex Mainard, Tom Starling, Cecil Londo, Elmer Gross, Peter Gasser, Allan Graskamp, Emil Mazey was there for a short time, and myself.

Senator CURTIS. How long did it last?

Mr. BRIERATHER. Two days, sir.

Senator CURTIS. You have had communications by letter or telephone with Mr. Rand in Detroit relative to the boycott success there, have you not?

Mr. BRIERATHER. Not too many of them, sir. We usually converse by telephone almost daily.

Senator CURTIS. What did he tell you?

Mr. BRIERATHER. In what respect, sir? In what respect?

Senator CURTIS. As to how successful the boycott was in Detroit.

Mr. BRIERATHER. Do you mean him reporting to me? Do you mean him reporting to me as to how——

Senator CURTIS. Yes.

Mr. BRIERATHER. Well, sir, I don't recall him ever reporting to me on how successful the boycott campaign was in Detroit.

Senator CURTIS. Did he ever say anything just in conversation?

Mr. BRIERATHER. About Detroit, sir?

Senator CURTIS. Yes.

Mr. BRIERATHER. Or generally.

Senator CURTIS. No, about Detroit.

Mr. BRIERATHER. Well, he told me that he had occasion to meet our boycott representative in that area very often, and that they work out of the same office, out of the same building I would say.

Senator CURTIS. It was your understanding that the boycott in Detroit was quite successful?

Mr. BRIERATHER. Well, it was my understanding that it could be quite more successful, sir.

Senator CURTIS. To what extent was it successful?

Mr. BRIERATHER. Well, that we had received the sympathy and co-operation of many of the contractors.

Senator CURTIS. No, I am talking about in terms of sales and places of business that you got to change. To what extent was it successful?

(The witness conferred with his counsel.)

Mr. BRIERATHER. Well, I couldn't isolate Detroit alone on a report of that type, sir. I have no knowledge of exactly how the Detroit boycott is going. I know that it isn't going well enough, that we still need an active boycott representative in there. That much I know.

Senator CURTIS. If any orders were entered, court orders or otherwise, or even consent orders, to stop the picketing of third parties, who would pay the court expenses in reference to that? Do you know?

Mr. BRIERATHER. Well, it has been our policy to agree to cease and resist orders if there is any question of us breaking the law, and if the case directly involved either local 833 or the UAW, the international union would pay the expenses, the legal expenses.

Senator CURTIS. The Jackson County CIO Industrial Council of Jackson, Mich., I believe, was involved in picketing of the Link Co.

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. And they were represented by Harold Cranefield and Kurt Hanslow.

Mr. BRIERATHER. Who was, sir?

Senator CURTIS. The picketers. I believe they were. Is that correct? Are they the legal counsel of the UAW-CIO?

Mr. BRIERATHER. They are, sir.

Senator CURTIS. The Kohlerian, which seems to be quoted quite a little these days, on April 5, 1957, has this headline:

"Can Plumbers Boycott", and the following statement appears:

If the plumbers union were to refuse to install, it would be a violation of the Taft-Hartley's secondary boycott provisions. A plumber as an individual can refuse to install Köhler. If he gets fired for it, there is nothing his union can do for him.

What did that statement mean?

Mr. BRIERATHER. Well, it just means to me what it says, that any individual is free to act as an individual, not only in these matters but in anything else, and that no union can refuse to install or handle any products. That doesn't, just because——

Senator CURTIS. A union can't?

Mr. BRIERATHER. A union, no.

Senator CURTIS. That is my understanding. Now, if they can't refuse to install, how can they picket somebody else to prevent them from selling so it can be installed?

Mr. BRIERATHER. That wasn't the purpose, to prevent installation. We have never tried to prevent installation.

Senator CURTIS. Isn't the first step in installation buying the stuff? I think it is.

Mr. BRIERATHER. The installation is being done by a party that hasn't purchased it, for instance.

Senator CURTIS. They can't install it until they buy it, can they? That is a simple question.

Mr. BRIERATHER. A plumber can install plumbing fixtures and he does not buy it. The owner of the building buys it. That is how I understand it.

Senator CURTIS. But somebody has to buy it before it can be installed?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. When you prevent them from buying it, you are preventing them from installing it, aren't you?

I couldn't hear you, Mr. Rauh?

Mr. RAUH. I didn't say anything.

Mr. BRIERATHER. If they didn't buy it they can't install it?

Senator CURTIS. That is right. So when you prevent them from buying it, you are preventing them from installing it, aren't you?

Mr. BRIERATHER. Well, if the guy didn't buy anything, he isn't prepared to install anything; yes.

Senator CURTIS. That is right. And that was the business the UAW was engaged in?

Mr. BRIERATHER. Well, that is a matter of speculation, sir, or interpretation.

Senator CURTIS. But a concerted effort by plumbers to refuse to install Kohler products would be unlawful; is that your understanding?

Mr. BRIERATHER. That is my understanding, yes, sir.

Senator CURTIS. You also recognize and advise plumbers, however, that they can do it individually; is that correct?

Mr. BRIERATHER. Anyone can act individually. Plumbers or anyone else, sir.

(At this point, Senator Goldwater withdrew from the hearing room.)

Senator CURTIS. Can you advise them, can you advise each one of them, that they can refuse to install, and they all carry out your advice at once? Would that be lawful?

Mr. BRIERATHER. If they would all carry out this advice at once? Well, sir, I am no attorney, and I believe that needs a legal interpretation, sir.

Senator CURTIS. Were there any situations where you told all the plumbers working on a particular job or about to work on it, not to buy Kohler?

Mr. BRIERATHER. No, sir. No, sir.

Senator CURTIS. Did you get some information from inside the plant as to how the boycott was working?

Mr. BRIERATHER. We received some information from it.

Senator CURTIS. Did you have anything to do with the strike bulletin?

Mr. BRIERATHER. I was editor on the strike bulletin for a little over a year, sir.

Senator CURTIS. On May 2, 1956, the strike bulletin contains this statement:

Bathtubs are still being piled 3 feet high in shuckshed. When this gets filled, a reliable source has informed us that so-called equipment shed, located next to and north of shuckshed will be used next for storing the customerless tubs.

On June 6, 1956:

There still is an insatiable demand for vitreous china plumbing fixtures, but Kohler's products are piling up, even though the total salable production is only 50 percent of the prestrike figures. Shipments are way off. Strike breakers haven't been hired for months. The volume of incoming new orders is on a definite decline and cancellation of old orders are coming in daily.

Again on August 24, 1956:

We have it on good inside authority that the scabs and strikebreakers are so thoroughly disgusted with the working conditions at the Kohler plant that the place is commonly referred to in conversations as the madhouse.

Did you get information from any of these cities as to how the boycott was going?

Mr. BRIERATHER. Some of the information, yes. Occasionally.

Senator CURTIS. Who would make those reports?

Mr. BRIERATHER. Well, the reports would come in by one of our reps or some other member of organized labor in the area who had talked to a contractor, who was sympathetic to our cause.

Senator CURTIS. When did the boycott start?

Mr. BRIERATHER. The boycott started around—well, my efforts, and the real boycott started around June of 1955, sir.

Senator CURTIS. Is it still going on?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. In how many States are you operating now?

Mr. BRIERATHER. We try to operate in all of them, sir.

Senator CURTIS. Do you know how much money has been spent on the boycott?

Mr. BRIERATHER. No, sir.

Senator CURTIS. Who would know that?

Mr. BRIERATHER. Mr. Emil Mazey.

Senator CURTIS. You are familiar with the testimony of Mr Mazey before this committee?

Mr. BRIERATHER. I was here, sir.

Senator CURTIS. Do you agree with all the views expressed by Mr. Mazey in that testimony?

Mr. BRIERATHER. With all of the views, sir?

Senator CURTIS. Yes.

Mr. BRIERATHER. Well, it is pretty hard to agree 100 percent with anyone's views, sir. I have a mind of my own the same like anyone else.

Senator CURTIS. Do you agree with Mr. Mazey that in a strike all who are not for the strikers are against them; that in other words, even though people are trying to be neutral, they must be regarded as enemies of the union?

Mr. BRIERATHER. That people who are trying to be neutral must be regarded as enemies, sir?

Senator CURTIS. Yes.

Mr. BRIERATHER. Well, in this strike, in any strike, not alone the Kohler strike, the support of public opinion and the support of anyone that is affected certainly plays a direct part in the length of the strike. Actually, it is very hard to be neutral, to sit on the fence and just watch the time go by. And if you will thoroughly, in my opinion, inspect the views of anyone that is so-called sitting on the sidelines, you will find that he does have an opinion one way or another. I think it is unfair for anybody that has anything to contribute toward stopping or settling a struggle such as this type, that it is unfair on his part if he doesn't do so.

The CHAIRMAN. Will you yield at that point for one question?

Senator CURTIS. Surely.

The CHAIRMAN. Why isn't it unfair to the individual who wants peace, who wants no quarrel, and who wants to get along, why isn't it unfair to him for two people like a union and a company to get at loggerheads and force a strike?

Why isn't it unfair to the citizen who wants peace and quiet?

Mr. BRIERATHER. Are you talking about people who would also be working in the plant?

The CHAIRMAN. No. You are talking about anybody. I think there is a third party to these things.

Mr. BRIERATHER. I don't believe anyone wants a strike. I certainly didn't want a strike, sir.

The CHAIRMAN. I know. The other fellow didn't, either. So it is not his making. He is on the outside. There I am, on the outside completely. Every member of this committee is on the outside completely. Thousands and millions of other people are on the outside in this country with respect to the strike.

Why must they take sides and either be your friend or your enemy? They didn't produce the strike, they had nothing to do with it. They hoped you folks wouldn't be at loggerheads as to call one on both sides. Why should we be blamed?

Mr. BRIERATHER. I wouldn't say you will be blamed, sir.

The CHAIRMAN. Thank you. Go ahead.

Senator CURTIS. But you do agree with the viewpoint expressed that you either have to be for the union or against the union, is that right?

Mr. BRIERATHER. Not altogether, no, sir.

Senator CURTIS. You would disagree with Mazey?

Mr. BRIERATHER. I respect someone else's opinion, sir.

Senator CURTIS. Do you agree with Mr. Mazey's view that Judge Schlichting was prejudiced and unfair in the trial and sentencing of William Vinson?

Mr. BRIERATHER. I personally feel that this was a very unfortunate situation. The only reason that I might have any sympathy for William Vinson is that I believe that his actions were a direct result of trying to help the Kohler workers.

Senator CURTIS. You said you believed that it was an unfortunate incident. My question is: Do you agree with the view of Emil Mazey that Judge Schlichting was unfair and wrong, that he should be attacked?

Mr. BRIERATHER. I didn't think that he should be attacked. However, I thought that he could have had just a little bit of mercy in extending the justice.

Senator CURTIS. Were you present when Emil Mazey did attack him in that speech?

Mr. BRIERATHER. I was in the meeting, sir.

Senator CURTIS. Did you protest?

Mr. BRIERATHER. No, sir. It was far too late to protest by that time.

Senator CURTIS. You were editor of the strike bulletin.

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Did you ever repudiate Emil Mazey for his attack upon the judge?

Mr. BRIERATHER. No, sir. There was nothing to be gained at that point.

Senator CURTIS. Did you ever publicly condemn William Vinson for his unlawful act?

Mr. BRIERATHER. No, sir. I felt sorry for William Vinson.

Senator CURTIS. You felt sorry for him?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. And the little fellow beat him up, so you felt sorry for him, is that what you mean?

Mr. BRIERATHER. Well, sir, I can't entirely take the blame away from the little fellow, to step into the type of an atmosphere as he did. I am sure that I would never have taken the same.

Senator CURTIS. Didn't he have a right to go into that tavern?

Mr. BRIERATHER. Absolutely, sir. He had a right.

But it is like a Democrat going into a Republican convention.

Senator CURTIS. We would be delighted to have them. That would be a chance to spread the light. We would be glad to have him. Do you agree with Mr. Mazey's view originally expressed to the committee that many of the clergy of the Sheboygan area were under the control or influence of the Kohler Co.?

(The witness conferred with his counsel.)

Mr. BRIERATHER. Did you say if I agreed with his views?

Senator CURTIS. Yes.

Mr. BRIERATHER. No, sir, I don't agree with his views.

Senator CURTIS. With Emil Mazey's views on that?

Mr. BRIERATHER. Not the way they were put, no.

Senator CURTIS. Do you agree with the context at all that the churches and clergy in that area are under the influence of the Kohler Co.?

Mr. BRIERATHER. No, sir. I don't agree with that. However, I would say that the clergy and the churches could have done just a little bit more in this situation and use some of their influences in order to help settle this dispute, sir.

Senator CURTIS. That fits in with your idea that they shouldn't be neutral?

Mr. BRIERATHER. Well, clergy are leaders in a community, and, as such, I believe that they have some responsibility. If we are wrong, sir, they should have stepped out and told us we were wrong.

Senator CURTIS. They did.

Mr. BRIERATHER. Only after this attack was made on them. This here certainly smokescreened what the Kohler strike was all about.

Senator CURTIS. Who smokescreened it?

Mr. BRIERATHER. No, sir, this attack hid the real issues within what the Kohler strikers were fighting for.

It was a result of a situation, sir. We had hoped that these people would probably use their influence in trying to get at the source of the trouble, in preventing a continuation of acts on behalf of both parties, for that matter, in order to create and to split the people still more in Sheboygan, sir.

I am a resident in Sheboygan. I would like to see this community work together. I would like to see the Kohler workers and the Kohler Co. work together. I deplore the fact that we have to fight when that same energy could be used for the common purpose. Those are my feelings, sir.

Senator CURTIS. All right. Now, you have worked for Kohler for about 20 years, haven't you?

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. Has this strike been a loss to you?

Mr. BRIERATHER. I believe this strike has been a loss to everyone. It is like war. Nobody really wins.

Senator CURTIS. Has it been a financial loss to you?

Mr. BRIERATHER. Very definitely, and I have been fired as a result of this strike, sir.

Senator CURTIS. This \$60 a week that you get, that is really all you get, what else you get has to be spent out in connection with your duties; is that right?

Mr. BRIERATHER. That is right.

Senator CURTIS. Do you think it was a proper expenditure of union funds for the union to pay Vinson's wife \$100 a week while he was in prison for beating up that man, Van Ouwerkerk?

Mr. BRIERATHER. Sir, I do not condone or approve of Vinson's conduct. But his wife was an innocent victim of a situation whereby William Vinson was sent to prison, and he was actually sent to prison

in trying to do something for the Kohler workers. It was wrong when he was doing it, but, nevertheless, he was doing it for the Kohler workers.

I believe that the UAW stepped up to a responsibility in this case. I certainly approve of it.

Senator CURTIS. Your wife and children are innocent victims, too, aren't they?

Mr. BRIERATHER. They certainly are, sir.

Senator CURTIS. Yes. And you have worked there 20 years and you get \$60 a week. Vinson was an outsider.

Mr. BRIERATHER. He was a member of the UAW, sir.

Senator CURTIS. What is that?

Mr. BRIERATHER. Outside is your term. He was a member of our union, sir.

Senator CURTIS. Yes, we know, now. We had in the record yesterday some minutes from 212, and some other facts. But when he was on the stand and for several days here, all the UAW fellows gave the impression that everybody just happened to come down to the Kohler area.

He got in that fight, brutally beat a man up. As a UAW member, do you approve of the \$100 a week for his wife?

Mr. BRIERATHER. Yes, sir. I didn't approve of the actions of Bill Vinson, but I approve of the help to his wife, sir.

Senator CURTIS. Did you ever condemn his actions, prior to this hearing?

Mr. BRIERATHER. Condemn them?

Senator CURTIS. Yes.

Mr. BRIERATHER. We did in Sheboygan in talking among ourselves, yes, sir.

Senator CURTIS. Who did you condemn Vinson's actions for assaulting Van Ouwkerk to?

Mr. BRIERATHER. All of us strikers talked very much about what Vinson had done. There was nobody who really approved his actions.

Senator CURTIS. Did any of them tell Emil Mazey that before he attacked the judge?

Mr. BRIERATHER. Most likely not, sir. Why should we?

Senator CURTIS. I say did you?

Mr. BRIERATHER. I don't know. They may have. I don't know. But why should we tell Emil Mazey that?

Senator CURTIS. And you are a citizen there, raising children in that community, and Emil Mazey makes this gross attack upon our duly constituted courts of law, which shocks the whole community, and you never protested. You are one of the leaders. You are the editor of the strike bulletin, on the strike committee, coordinator of the boycott.

Mr. BRIERATHER. I recognized his right to do what he did.

Senator CURTIS. Well, now, he did that after the case was all completed, didn't he?

Mr. BRIERATHER. Which case are you talking about?

Senator CURTIS. Vinson's case.

Mr. BRIERATHER. Yes, sir.

Senator CURTIS. It was notice to any other judge, police judge, or justice of the peace, of the power and the methods and the manner of the UAW, if they administered justice as they saw it.

You have testified somewhat at length here about the plight of the small-business men and their employees when you boycott them.

I have a complaint coming to me here. In the language of the chairman, I will not read it for evidence, but to present a viewpoint in this for the purpose of asking a question.

This is a supply company in Chicago that has handled Kohler products for many years. They point out this:

The plumber can buy Crane Co., American Standard, Reim, Universal-Rundle, United States or Humphrey's enamelware. The plumber can survive without Kohler. I believe the jobber is suffering more than the manufacturer or the plumber due to this strike.

The union has large billboards all around Chicago land telling the public to buy union-made plumbing fixtures.

You find the owners of homes who are union men refusing to buy Kohler products. How long can we carry on selling Kohler products?

I have spent thousands of dollars over the years advertising Kohler fixtures, and do hate to change—

and then he named a couple of others, which I think in all fairness should not go into the record.

"The big reason I am staying loyal," meaning loyal to Kohler, "is because they do not compete against their jobbers like" and he mentioned two other companies.

I am leaving that out because there may be perfectly good reasons why some people adhere to a manner of distribution more than others. What they are doing is lawful.

He ends up by saying, "It is the Kohler jobbers who are hurting right now."

In other words, here is the case of an individual, and, as he says, he spent years advertising Kohler products. He has preferred to stay with that company because of their method of distribution. They do not own any jobbing houses, and they do not compete with jobbers. Do you think that it is right to attempt or to put such a man out of business, or to put him out of business by means of the boycott that you are directing throughout the United States?

Mr. BRIERATHER. Well, I believe that this, whoever it is, has the right to switch to another one, even if only temporarily. This man is put in the same position as the Kohler worker who has invested 20 years of his life making Kohler products, sir.

Senator CURTIS. Yes, he has that right, but he has to give up considerable property to do it. He has established a business, run ads, and told the people this is the type of ware that he sells, and that they ought to buy it. He has that goodwill of his clients.

He says that he doesn't want to switch to two other well-known companies, because he doesn't like to shift to someone who competes in the jobbing business.

Do you think such a boycott is right?

Mr. BRIERATHER. Well, it is no more right than, as I stated before—this guy is in the same position. It is not right to have a worker in a plant invest his lifetime. You might say that he has a choice of going somewhere else. I would like to call to your attention that we have about 200 men on the strike assistance rolls right now that cannot get a job anywhere else because of incapacities which have been received as a result of working at Kohler, sir.

There is no way of justifying all of the actions. I can appreciate this guy—

Senator CURTIS. I would agree with you. People have been damaged right in the Kohler community. All we are trying to do is to get the facts here. If they hurt the company, they will have to face the music and if hurts the union they will have to face it.

It is a very wasteful thing which is of great economic loss to everybody. But at least there is a contest going on there.

When you carry this economic war over to neutral persons, little businessmen, homeowners, and people who work for a jobbing house and so on, I want to know whether you approve of that.

Mr. BRIERATHER. I believe that is the result of a situation. The Kohler strikers that can't find jobs elsewhere are not expendable, sir, I don't believe so.

Senator CURTIS. Well, do you approve of it?

Mr. BRIERATHER. In that situation, yes, I approve of it.

Senator CURTIS. All right.

Mr. BRIERATHER. I think it is deplorable that a struggle like this gets this far. I would strongly recommend any kind of procedure—I have no answer for this thing—that could bring about a settlement or something like this that appears unresolvable. This is the answer to something like this. A boycott is an extensive proposition. It takes a lot of effort. You never know whether you are making progress or not. As I stated, some people get hurt that have no business in getting hurt. But all the same, sir, the strikers that invested their lifetime, are they expendable?

There is no other choice, sir. We have tried to go to the courts. We have been in an NLRB hearing that will be 4 years old. The hearing is not that long, but how much longer before a final decision, sir.

Senator CURTIS. Well, you stated you approve of it. I cannot agree with you that you have no other choice. You were not compelled to carry this fight to neutral third persons.

The CHAIRMAN. Senator Mundt?

Senator MUNDT. I have one question in connection with the boycott, Mr. Chairman. I have some other questions for the witness I will defer until tomorrow morning.

The CHAIRMAN. The Chair will announce that for reasons personal to himself, as much as to accommodate some members of the staff in view of the weather conditions and so forth, we are going to recess a little early.

I do not think anyone will object under the circumstances. But we cannot conclude with this witness this afternoon, which is apparent, and he will have to be back tomorrow. So when we recess, we will recess until 10 o'clock in the morning.

Senator Mundt had some question he wished to ask this afternoon.

Senator MUNDT. I am going to ask you some questions tomorrow on a different subject than boycotting, but I have one question in connection with the line of inquiry Senator Curtis has been engaging in. You would agree, I presume, that a boycott may be carried to an excess, would you not?

There are certain excessive acts that even a boycott, in your opinion, you would not be able to justify?

Mr. BRIERATHER. Well, we have always tried to stay within the law as much as humanly possible; sir.

Senator MUNDT. I am thinking not so much now in terms of law as in terms of human decency.

I read into the record some time ago the fact that one of your boycott activities had gone so far as to boycott the Community Chest of Duluth, Minn. I would like to know from you as coordinator of the boycott whether you consider that to be a defensible boycott activity?

Mr. BRIERATHER. Well, sir, I don't believe that the UAW was involved. However, in other similar situations I believe that the UAW took the position that the help that the Community Chest provides to the people who it was set up to help is more important than help in this situation, sir.

Senator MUNDT. I am simply asking you now, and I haven't said that the boycott at Duluth, Minn., was necessarily a UAW boycott; I am asking you whether you feel that the boycotting of a Community Chest is a defensible union activity.

Mr. BRIERATHER. I don't believe that the Community Chest should be boycotted, sir. But I am not opposed to going to the Community Chest and telling them our story and trying to win their sympathy, sir.

Senator MUNDT. I think you would be perfectly within your rights to do that. But you do not feel they should go to the excess that they did in Duluth, Minn., and boycott the Community Chest.

Mr. BRIERATHER. I understand that community services representatives from the AFL-CIO, if they have not already arrived, they are going to go there and try to get that situation straightened out as soon as possible.

Senator MUNDT. Let me ask you about this: On March 18, which is comparatively current, of the Duluth AFL-CIO central labor council, which was responsible for that boycott, the AP story says:

The Duluth AFL-CIO central labor council has renewed an earlier demand that St. Mary's Hospital be dropped from the Duluth Community Chest.

The demand was first made last month after the hospital planned to install some \$6,000 worth of plumbing fixtures from the strikebound Kohler Co., at Kohler, Wis.

A hospital spokesman at that time reported that the labor protest was made after contracts for remodeling work had been let and that they could not be changed.

At a meeting Friday, dominated by building trades union, the council gave a unanimous voice vote favoring a resolution calling for ouster of St. Mary's as a chest beneficiary.

I presume that since you disavowed the first as an indefensible union practice, you would also disavow this. This does not involve, as I understand it, the particular operation, but we are curious to know what your position is, because as coordinator of the most important boycott activity now going on in the country, it is important that we get your answer.

Mr. BRIERATHER. I wasn't aware of what you are talking about there now. My last information was that the community services department of the national AFL-CIO would go there to correct the situation, as they have done in the past. In other words, urge them to support the Community Chest.

Senator MUNDT. I am not trying to condemn your union, I am not trying to condemn any union. I am simply pointing out, and I read you the article so you know what it says. I am trying to find out whether you defend or disavow that kind of activity.

Mr. BRIERATHER. Well, I would want everyone to support the Community Chest, sir, everyone.

Senator MUNDT. You would not favor, then, I take it, saying a hospital has to be boycotted simply because it uses a certain kind of plumbing fixtures, is that right?

Mr. BRIERATHER. That is right.

Senator MUNDT. O. K.

The CHAIRMAN. The committee will stand in recess until 10 o'clock in the morning.

(Whereupon, at 4:20 p. m. the committee adjourned, to reconvene at 10 a. m. Friday, March 21, 1958, with the following members present: Senators McClellan, Curtis, and Mundt.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

FRIDAY, MARCH 21, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee met at 10 a. m., pursuant to Senate Resolution 221, agreed to January 29, 1958, in the caucus room, Senate Office Building, Senator John L. McClellan, chairman of the select committee, presiding.

Present: Senators John L. McClellan, Democrat, Arkansas; Sam J. Ervin, Democrat, North Carolina; Barry Goldwater, Republican, Arizona; Karl E. Mundt, Republican, South Dakota; Carl T. Curtis, Republican, Nebraska.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Adelman, assistant chief counsel; John J. McGovern, assistant counsel; Ruth Young Watt, chief clerk.

The CHAIRMAN. We will proceed.

(Members of the committee present at the convening of the session were Senators McClellan and Curtis.)

The CHAIRMAN. The committee will come to order.

Mr. Brierather, will you come around, please?

TESTIMONY OF LEO J. BRIERATHER—Resumed

The CHAIRMAN. I think Senator Mundt has some questions, and I think he announced yesterday before we adjourned that he wished to ask this witness some questions. In the meantime while we are waiting for Senator Mundt, the Chair will ask you a few questions.

Do you consider this boycott that you have carried on for this last year or two has been effective?

Mr. BRIERATHER. Well, yes; I would say that the boycott has been effective, and it has not been successful.

The CHAIRMAN. It has not been successful but it has been effective?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. You mean then in some places where you have applied it, it has been effective?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. But in the overall, it has not been successful?

Mr. BRIERATHER. Well, I would like to point out, by success we mean that we have established enough economic pressure upon the Kohler Co. to induce them to come to the bargaining table and negotiate and bargain in good faith and try to get this strike settled.

This is what success in the boycott means to me, sir.

The CHAIRMAN. In other words, the force of the boycott, the economic force and pressure that you have been able to apply by the use of it has not been successful in that it has not achieved its purpose.

It has not compelled and forced the company to surrender to the will of the union?

Mr. BRIERATHIER. Well, it isn't quite surrendering to the will of the union.

The CHAIRMAN. You use any other word you want to.

Mr. BRIERATHIER. It is to bargain in good faith, and by no means surrender.

The CHAIRMAN. It goes beyond bargaining in good faith. Whether they bargain or did not bargain, it has not had the effect of closing down the operation of the company, has it?

Mr. BRIERATHIER. Oh; no, sir.

The CHAIRMAN. And that is one of the purposes of a boycott, is it not?

Mr. BRIERATHIER. Well, that is probable——

The CHAIRMAN. You either close it down or so reduce its business that it will feel the effect of it to the extent that it must yield or else suffer the consequences.

Mr. BRIERATHIER. Well, sir, that is the decision that the Kohler Co. must make.

The CHAIRMAN. I understand, and it has made a decision not to yield?

Mr. BRIERATHIER. Yes, sir.

The CHAIRMAN. And to fight your boycott?

Mr. BRIERATHIER. Yes, sir.

The CHAIRMAN. And it is still fighting?

Mr. BRIERATHIER. Yes, sir.

The CHAIRMAN. And according to you it is fighting it successfully, because you haven't been successful with it, according to your statement; is that correct?

Mr. BRIERATHIER. Yes, sir; the battle is still in doubt, so to speak.

The CHAIRMAN. I know the battle is still going on. Now, a smaller company with less financial resources against a large union with its great resources, such as the UAW, would be helpless and defenseless practically against such economic pressure, would it not?

Mr. BRIERATHIER. Yes, sir. Similarly a smaller union would be helpless against the Kohler Co., too.

The CHAIRMAN. In other words, if the Kohler Co. had been a smaller company or much weaker financially than it is, it would not have been able to have withstood the pressure that has been applied through this boycott; is that correct?

Mr. BRIERATHIER. There are many things that enter into this, Senator McClellan. We are trying to conduct this as a sales campaign, and we are trying to get economic pressure on the basis of telling our story to the people.

The CHAIRMAN. I understand that.

Mr. BRIERATHIER. If a smaller company would have the same existing circumstances, and the union could tell the same story in regard to the labor relations, there are many things which enter into the picture.

The CHAIRMAN. I understand that, but the reason primarily that the Kohler Co. has been able to survive the boycott has been because of its financial resources which enabled it to resist and put up the fight; isn't that true?

Mr. BRIERATHER. That is very true.

The CHAIRMAN. You agree with me on that?

Mr. BRIERATHER. It is very rich, yes.

The CHAIRMAN. Now, some companies or some manufacturer, or some business with less financial resources would have much greater difficulty withstanding the impact of such a boycott that the Kohler Co. has experienced, you will agree with that?

Mr. BRIERATHER. That is a matter of speculation, and I would agree to some extent with that.

The CHAIRMAN. You agree to that. Then the question before us, and should be before the Congress, is to what extent and to what degree or in what way is it proper to apply an economic boycott in a labor-management dispute.

Don't you think that that question is posed by reason of this demonstration of how extensive a boycott can be, and the necessary resources that it takes to oppose and to fight it?

Mr. BRIERATHER. Well, that certainly is the question, but as I would see it, it is not the entire question.

The CHAIRMAN. There may be other questions?

Mr. BRIERATHER. If this weapon is taken away——

The CHAIRMAN. But that is one question?

Mr. BRIERATHER. That is one question.

The CHAIRMAN. Here is a company now that has demonstrated possibly by reason of its financial worth and strength, it has been able to successfully resist its own destruction by a boycott or to resist yielding to demands that it feels it should not yield to by reason of the fact it did have the financial strength to fight it.

Now, to take the same situation with a company that does not have those resources, some small business enterprise, is it not put at a terrific disadvantage unless there is some law defining clearly and precisely what kind of a boycott can be carried on, and what kind of a boycott is a proper labor practice, and the kind that is not.

(At this point, Senators Mundt and Goldwater entered the hearing room.)

Mr. BRIERATHER. As I see it, sir, the boycott is very little difference from a strike itself. Whenever workers go out on strike it is for the purpose of applying economic pressure upon the Kohler Co. or any company.

The CHAIRMAN. That is correct.

Mr. BRIERATHER. This is against the Kohler Co.

The CHAIRMAN. And the point I am making, and you are giving an illustration, is that when you go out on strike that is applying economic pressure, and that is correct. When you boycott, that is applying economic pressure?

Mr. BRIERATHER. Yes, sir.

The CHAIRMAN. But we come to this then: When you go out on strike, is it proper, or a proper practice, and should it be sanctioned by law that you could put so many pickets in front of an entrance to a plant that no one else could enter, and should you be able by that means

to keep people away from work by sheer force, physical force? And that is what it amounts to.

That is another thing that I think the Congress should consider.

Mr. BRIERATHER. In conjunction with that, sir, I don't entirely disagree with you, but in connection with that the Congress also should see to it that a strike is not a means of the workers going out on strike and giving them a rope to hang themselves. You have to give them something whereby they can help themselves.

The CHAIRMAN. What do you want? Suppose the company said, "If you are not going to work for these wages, we want to shut down our plant, and we can't afford to pay it."

Then do you want the Congress to make them operate the plant in spite of that fact?

Mr. BRIERATHER. Well, sir, I would think that a great amount of the difficulties, and the situation which arose out of the Kohler strike could have been straightened if the Kohler Co. would not have available to them people who had not worked at the Kohler plant.

I feel kind of proud, and I think that this certainly is a direct challenge to the Kohler Co., that even today the Kohler Co. could not operate its plant with its original workers. I think the Kohler workers stuck together like no other group did before.

The CHAIRMAN. You may see something to be proud of in this affair, but I don't see anything on either side for anyone to be proud of. I think the whole thing from beginning to end is most regrettable. I think the Congress should search, and that should be the purpose of this inquiry that we are conducting now, to search for the facts and then undertake to find some legislation that will do justice to both sides and protect both interests, and yet be calculated to prevent a recurrence of what has happened in this fight between the Kohler Co. and its employees.

I say that not in condemnation of anybody but in search of a remedy, something that will do justice for both sides, and at the same time not have these things occurring. Because you did have a riot out there in 1934, according to all of the testimony, and you barely escaped one in 1954.

Although you escaped the riot you had practices going on out there, vandalism and other conduct that is most reprehensible, and it has done irreparable harm, in my judgment, in that community.

Mr. BRIERATHER. I agree with you, Senator. I think that the strike is the worse thing that can happen to any worker and to his family, and certainly to the company. But I would like to state that when Congress does try to take corrective measures, it should also try not to give a company another strike-breaking weapon.

I would like to see something done whereby a strike such as this could be conducted with everything above board, and when we feel helpless, that is when this stuff happens.

The CHAIRMAN. Let me ask you something. Do you think that the company, and I am not talking about Kohler as such, but do you think a company or an employer should have no weapon with which to oppose what he regards as an unjust strike?

Mr. BRIERATHER. They have plenty of weapons.

The CHAIRMAN. Would you take all of the weapons away from them, and what weapon would you let them have to oppose what they

would regard as unjust demands upon them? What weapon would you let them retain?

Mr. BRIERATHER. I am not opposed to any of the weapons that they have at the present time, with the exception that they can use a strike to destroy a union.

The CHAIRMAN. With the exception that you don't want them to go out and employ other people?

Mr. BRIERATHER. Other people under those circumstances——

The CHAIRMAN. Of course that means complete surrender, doesn't it?

Mr. BRIERATHER. Oh, no, sir. The company stated, and I believe it is on the record that the majority of the Kohler workers did not want to strike, sir, and that it was the union and its leadership that wanted to strike. This is not true, sir.

Even 4 years later nobody can tell me and convince me that by force I or anyone of the officials of the union could keep these people out of the plant. This is the most ridiculous thing I have ever heard.

The CHAIRMAN. That you could keep people out of the plant?

Mr. BRIERATHER. By force, yes, our own people.

The CHAIRMAN. Well, you did keep people out by mass picketing for quite a while.

Mr. BRIERATHER. We didn't attempt to keep our own people out of the plant. If they would have wanted to go into that plant, they could have gone in at any time.

The CHAIRMAN. You attempted to keep workers out of that plant and succeeded. You say your own people, and you are talking about union members.

Mr. BRIERATHER. The company eventually succeeded in getting new people into that plant, and Mr. McClellan, I might say to you right now, that those people that were working at the Kohler Co. prior to the strike, and some of them our own union members who eventually went into work, did not do so because they saw the Kohler Co.'s point of view but because they felt that they had to protect their jobs and because somebody else was taking it away from them.

The CHAIRMAN. That is economic pressure from the other side, isn't it?

Mr. BRIERATHER. Well, the very fact that a striker returns——

The CHAIRMAN. You use economic pressure on one side, and the other side uses economic pressure and you object to it?

Mr. BRIERATHER. The very fact that a striker is out on strike and not earning his wages is plenty of economic pressure. Believe you me, I know.

The CHAIRMAN. I am sure it is.

Senator Mundt, do you have some questions?

Mr. RAUH. Mr. Chairman, may I be permitted one opinion on the boycott situation.

The CHAIRMAN. Briefly.

Mr. RAUH. It will be very brief. Our union takes the position that the consumer boycott is only an extension of the basic principle shown in the union label program of trade unionism to the effect that union members and those who believe in the union movement would support the union against an employer, and would support union-made goods against non-union-made goods. And really the consumer boycott we

have carried on is a very little extension of the union label program, which I think the American Federation of Labor has had for probably 100 years.

For Congress to tamper with the consumer boycott, we would feel, would be a mistake. As far as the secondary boycott, we agree that that is a problem, and we try to avoid it and we are still trying to avoid it.

The CHAIRMAN. Mr. Rauh, the point I am raising is simply this: A man's right to boycott is certainly an individual right. It may become a collective right in management-labor relations, where your union says, "Well, we won't buy, and we will tell our members not to buy." I think that is freedom of speech, and freedom of persuasion, and it is perfectly legitimate.

But when they go beyond that and go out and maybe picket the innocent and threaten his business, where he has no quarrel, then I think it may be going too far.

In other words, what I want to do is get as much as the facts on this before this committee and before the Congress so that the Congress can evaluate and weigh it, and see where legislation may be needed and where it may not be.

I am not necessarily condemning at the moment anything that the union has done, and I am not necessarily condemning anything that the company has done. It appears to me that you both started out pretty obstinate, and remained the same as of now.

Proceed, Senator Mundt.

Senator MUNDT. First of all, I would like to second what the chairman has said about this boycott. I am a little bit surprised that Mr. Rauh would present the argument he did. I admire his ability and his agility, but I don't think that he is quite up to par this morning when he tries to tell us that there isn't any difference between a voluntary movement to buy union label goods, and the kind of boycott that these hearings have been discussing.

The difference is simply the difference between voluntary and involuntary. It is a difference between black and white, and yes or no. It is a pretty vast difference where you educate people to buy union goods, and I think that is fine, and that is proper. That is part of the standards of union practice.

There is a vast difference between that and exerting coercion, and pressures and picket lines, and boycotting of community chests and hospitals, to say, "Unless you do it you are in trouble. It is against this second thing, Mr. Rauh, that we are thinking in terms of legislative terms, and not against the first one.

Mr. RAUH. Senator, just let me say on that point, you interrupted Mr. Brierley yesterday when he was trying to tell you and to explain that this was an educational boycott, and that the picketing was a negligible part of it, and would you let Mr. Brierley now go through the boycott and explain how it works? As soon as he got started explaining it, you and Senator Curtis went right into picketing.

Senator MUNDT. You said "you," and then "Senator Curtis."

Mr. RAUH. It was one or the other, and I never remember which one asks the question, and they are very often quite similar, but I can't remember.

Senator MUNDT. Part of your job as counsel is to keep those things firmly in mind so you can quote us correctly, because you were 100 percent wrong when you said I interrupted, because I didn't.

I wasn't talking about boycott, and I was talking about the hospital.

Mr. RAUH. Perhaps it is Senator Curtis.

Senator MUNDT. At that time, when Senator Curtis is asking questions this morning, I suggest that you let Senator Curtis and your witness discuss that point, if something was left dangling in midair, and I don't know.

Now, Mr. Brierather, when you and I were discussing this at the end of the day yesterday, something about this boycott business, I was happy and pleased to hear you say that you disavowed the hospital strike, and the community chest strike in Duluth, and that you disapproved of it.

I think that is proper, and I certainly hope that the international union which pays your wages as coordinator, if that is the proper title, of the boycott program, will make that position clear to the union forces in Duluth, and to the country generally. Because it certainly is pretty hard for anybody to justify labor strife being taken out on the people who are in the community chest and the sick, and the dying in a hospital.

I am glad that you did place your stamp of disapproval on what I think is a pretty ghastly, grim, and disgraceful situation up in Duluth, Minn., where this thing has been taking place, and I did understand you, did I not, to say you disapproved of that?

Mr. BRIERATHER. Well, sir, organized labor——

(At this point, the following members were present: Senators McClellan, Mundt, Curtis, and Goldwater.)

Senator MUNDT. Do you disapprove of that?

Mr. BRIERATHER. Yes, it is against the principles——

Senator MUNDT. You and I will go along and I will let you say everything you want to. But I think counsel will agree that first you should answer the question, and then elaborate. When I say, "Do you disapprove?" you say "yes" or "no" and then if you want to amplify it, you can. That would be fair and proper.

Mr. BRIERATHER. I disapprove of that, certainly, because the UAW and organized labor in general have fought to have such things as community chests to take care of the problems of those unfortunate people that couldn't help themselves.

It was one of the things that they fought for for years. Now to deny the community chest the help of the public and certainly of people of organized labor is certainly against our principles, sir.

Senator MUNDT. I am happy to have you say that. I don't think it has happened too many places, but I do happen to know about Duluth, Minn., because I went to school in Minnesota. I know something about Minnesota, it is close to South Dakota, and the people there are just very much disturbed about labor strife being fought out in the corridors of hospitals where babies are being born and people are dying.

I hope you will use your influence. I want to find out a little more from you this morning, Mr. Brierather——

Mr. BRIERATHER. Call me Leo.

Senator MUNDT. Call you Leo, all right. You and I are just a couple of country boys and we will work on that basis. Leo, I am trying to find out from you how important in this boycott movement you are. I don't want you to assume responsibilities for things that are outside the realm of your authority, and I know you are not going to duck any responsibility for things that you do. Your title, I understand, is coordinator of the UAW boycott program, is that correct?

Mr. BRIERATHER. That is correct, sir.

Senator MUNDT. That is correct. In that capacity, do you have other people devoting full time to it besides you and Mr. Rand?

Mr. BRIERATHER. Yes.

Senator MUNDT. How many?

Mr. BRIERATHER. We have a committee, special committee set up from the local union.

Senator MUNDT. How many?

Mr. BRIERATHER. I would say about 15 right now.

Senator MUNDT. 15 at the local level?

Mr. BRIERATHER. Probably. We had more at one time.

Senator MUNDT. From 15 to 25?

Mr. BRIERATHER. Yes, we had 25.

Senator MUNDT. Sometimes more than that?

Mr. BRIERATHER. Yes. Although the special committee and full-time committee had other duties, too, but they weren't to devote as much time and helping along with setting up this boycott program.

Senator MUNDT. Did your committee ever get larger than 25?

Mr. BRIERATHER. I don't think so, no.

Senator MUNDT. Between 15 and 25 members, former Kohler employees, now devoting full time to the boycott movement?

Mr. BRIERATHER. Yes.

Senator MUNDT. And then Mr. Rand, who is not a former Kohler employee makes one additional from the outside. Are there any other additional people from the outside?

How about Mr. Burkhardt?

Mr. BRIERATHER. Mr. Burkhardt is no longer assigned to this program. He is working at some other job now.

Senator MUNDT. Anybody else besides Mr. Rand?

Mr. BRIERATHER. Yes. I listed all of the boycott representatives yesterday. If you will recall, we had a meeting in Detroit.

Senator MUNDT. If you got them in the record once, once is enough. How many of them are there to add to your committee of 15 to 25?

Mr. BRIERATHER. Right now, I believe there are 11. There could be 12 of them. I would have to list them again.

Senator MUNDT. 12 international representatives out of the Detroit office and 15 to 25 out of the Sheboygan office?

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. Either office, at times, sends people, I think you said, to Los Angeles or any place?

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. All right. The only time you need a boycott, I presume, from the standpoint of the union, is when your strike itself, for one reason or another, has failed to either achieve the union purpose or achieve enough of them so that you can write a new contract, is that right?

Mr. BRIERATHER. Yes, sir, that is about it.

Senator MUNDT. So that wherever a strike is embraced sufficiently by the local labor group, you don't need a boycott; it is only when you have part of the laboring force wanting to strike and part of the laboring force wanting to work that you have to try to utilize the instrumentality of the boycott to achieve the purpose of the strike. Isn't that correct?

Mr. BRIERATHER. What do you mean by labor group? Do you mean our own, the Kohler workers themselves, sir?

Senator MUNDT. Yes, the Kohler workers and the working people, let's say, of Sheboygan.

Mr. BRIERATHER. If you include all of the working people of Sheboygan, or the entire surrounding area, sir—this is another unique thing about this.

Senator MUNDT. Let's stick to Sheboygan now. Let's get an answer to the question of Sheboygan. If the working group, if the workers, in Sheboygan, had embraced the purposes of the strike sufficiently, you wouldn't need any boycott or anything else but to go on strike, is that right?

Mr. BRIERATHER. Well, sir, I think if we could include all of Sheboygan, we would still be in good shape as far as people not going into that plant.

Senator MUNDT. May I have the reporter read the question? I think you didn't understand it. You certainly didn't answer it. It didn't have any connection with the question.

(As requested, the reporter read the pending question.)

Mr. BRIERATHER. The workers in Sheboygan did embrace the strike, sir.

Senator MUNDT. Not sufficiently so that the strike won.

Mr. BRIERATHER. Yes, sir, if you put it that way, yes, sir.

Senator MUNDT. My point is that even if the people in the Kohler plant, if the workers at the Kohler plant, let's say 90 percent of them had said "This strike is for us, this is something we are going to strike with," you won't need a boycott, because they can't run a plant with 10 percent of the people.

Mr. BRIERATHER. That is correct.

Senator MUNDT. So that when you get to a situation of a boycott, it is because there is a division of opinion on the part of the workers as to whether the strike or the union or whatever is the situation, should be embraced?

Mr. BRIERATHER. Well, where I am really confused is in the interpretation of the workers, sir. Like if you were saying workers within the Sheboygan area, I believe we wouldn't have needed a boycott. I don't think the Kohler Co. would have—

Senator MUNDT. Let me pin it down. The point is this: If the workers in the Kohler plant themselves had supported the strike 100 percent, it is obvious you don't need a boycott or anything else to win a strike because the plant is closed down.

Mr. BRIERATHER. That is correct, sir.

Senator MUNDT. So the company decides to keep the plant closed down forever or do business with the union.

That seems to me to be simple.

Mr. BRIERATHER. That is right, sir.

Senator MUNDT. If 90 percent of them, I suppose, in the plant supported the strike, you don't have to have the boycott.

Mr. BRIERATHER. That is correct, sir.

Senator MUNDT. There comes a point where you go down, it may be 80, may be 70, or 60, but some place down the line, when you have a division of opinion among the workers in the plant, then it is difficult for a union to win a strike, even though it feels that it represents the majority of the workers. Isn't that the problem?

Mr. BRIERATHER. Actually, there was very little division. I stated before that if it could be on that fact alone, we wouldn't have needed a boycott, sir; it was the importation of strikebreakers that made it necessary for us to pursue a boycott.

(At this point, Senator Ervin entered the hearing room.)

Senator MUNDT. That we will have to find out. You say they imported the strikebreakers from outside of Sheboygan and the company said they didn't, and certainly the Senator from South Dakota doesn't know who is working at the plant. I will have to find out eventually who is right on this. There is a conflict of opinion, certainly, between you and other witnesses as to where the workers came from. But the thing I am interested in primarily at this point is that if the workers within the plant themselves had been sufficiently united in their determination to strike and in persevering with the strike, you wouldn't get into this sticky business of a boycott. Sometimes it is perhaps legal and sometimes illegal and sometimes ethical and sometimes unethical, but which you and I have recognized can be carried to excess.

Mr. BRIERATHER. That was not the case in the Kohler strike, sir. If it would have been just for the workers in the plant, union or non-union, we wouldn't have needed a boycott.

Senator MUNDT. Well, there is no use to argue that, because this is a matter of difference of opinion and difference in whoever seems to be testifying. We have had testimony in the plant that some 1,380, I believe, of the workers had gone back to work. We had testimony that 1,180 or thereabouts voted to strike. You can juggle these figures around and you are never going to wind up any place. But we can recognize the fact that if you had been able to sell the idea to all the workers, or 90 percent of the workers, you wouldn't have had this problem of going into a boycott.

Mr. BRIERATHER. I am confident that we did sell it, sir. You can prove anything with figures.

Senator MUNDT. You said a strike, as we all recognize, is a legitimate weapon of labor. It isn't very much different from a boycott. You said a boycott is sort of an extension of a strike.

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. There is this big difference, isn't there: That a strike primarily is set up to keep workers who disagree with the strikers from entering the plant, assuming their jobs, and enabling the company to continue work without the strikers. That is the purpose of the strike?

Mr. BRIERATHER. The purpose of the strike is to shut down the plant completely, sir. To shut it down so that there is no production.

Senator MUNDT. I think the purpose of the strike is for the union to win a labor argument. You are not trying to shut down a plant.

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. Now, there is this big difference in a boycott. A boycott is not directed, first, against the company at all.

Mr. BRIERATHER. It certainly is.

Senator MUNDT. It is directed against the third parties. It is directed against the third parties. That is the difficulty with a boycott. In order to operate, it is directed against third parties. You are not boycotting the company directly because the company doesn't sell, I presume, its fixtures and plumbing equipment out of the front office.

It does it through innocent third parties, far removed. Somehow or other you intimidated little community commissioners and mayors in little towns far from Sheboygan who wanted to become public officials and feel that that is the thing to do for one reason or another, whether it is because of the desire to get labor votes, or public opinion, whatever it is. But clear off in Connecticut you had little fellows running for town office who got so afraid or emotionalized or timid, or whatever it was, that clear off there you induced some of them, as part of the boycott movement, to pass city ordinances not to buy equipment, sold by Kohler, by taxpayers of their communities, who were no more involved in either side of the strike than that microphone in front of you.

So the difference between the strike and the boycott is that it is directed against a third party. And the third party has some rights in this country which you must concede. I even think, and you may disagree with that, that a minority has some rights. I know that your counsel says he believes that in some of his fine speeches that I have read, and I would assume that maybe you would agree with me, that a minority has some rights; that even a fellow working in a plant who doesn't want to strike ought to have some rights.

But apparently you set up not only a strike but a boycott to crush down the minority so they don't disagree. That is inevitable, isn't it, Leo?

Mr. BRIERATHER. Well, sir, our boycott campaign is against the Kohler product. I do agree that a third party often gets involved, sir. But the boycott is against the Kohler product. I believe, and we all believe that every citizen has a choice to buy what he wants to, to sell what he wants to, and we are trying to influence that choice, sir.

We are trying to get him to exercise that choice. With government bodies, with dealers, and with everyone else. We haven't been successful in many cases, sir.

Senator MUNDT. May I say—

Mr. BRIERATHER. Your allegation of intimidation certainly is not upheld in that, because with governmental bodies, in many cases we have been unsuccessful and in some cases we have.

In other words, that particular body made its choice. We have influenced that choice. In some cases we haven't, because they took just the opposite stand. So, as far as a boycott against a third party, that is not true. We are against boycotting Kohler products which are made by the Kohler Co. with a force of strikebreakers, sir.

Senator MUNDT. I think what you have said is rather long but a pretty definite affirmative answer to the question I asked you. By your very testimony you said it has to be directed against the third party. Your target is Kohler, but to get to Kohler you have to work

through these distributors and work against others. That is exactly what I said. I am rather glad—I don't know who is right about the strike, but I am rather glad, at least we have a majority of public officials even in municipal organizations who refuse to be pushed around by any kind of pressure.

By what you said you weren't too successful. In some places you couldn't induce people to pass ordinances, and in some places you could. It after all isn't much business up in Boston or in Buffalo, or someplace else, it isn't much business of the people there, just individual taxpayers, what statements are made over in Kohler, Wis. These are innocent third parties. They might manifest an interest in your cause, if they feel it just, by sending you money for your strike fund and so forth. But to tell the taxpayer that because he is using Kohler products, or a plumber because he is using Kohler products, that he can't work, he is out of a job, that is jungle warfare, that is what I think you and I and all of us on this committee are trying to get rid of. It is tantamount to the old-type lockout the employers used, which has been made illegal. It is tantamount to the type of roughhouse that strikes almost universally seemed to bring about. This one, to a considerable extent, at least, has avoided that. By the testimony here there has been less of a roughhouse situation than there was 20 years ago. I think we are making progress. But I think you are walking downhill back to the jungle times of labor strife when you direct coercion against third parties. We will not discuss it further. Your position, I think, is clear, and mine is clear. I would like to turn to some other aspects.

Mr. RAUH. Just a moment, Senator Mundt. Mr. Brierather has an answer. Several times now during the course of your questioning of Mr. Brierather, you have cut him off short. He is about half your size. I think it is fair to let him answer. He wants to say something, but you want to quick-shift to some other subject.

Senator MUNDT. I haven't asked him a question, but if he wants to say something, he may.

Mr. BRIERATHER. Sir, I don't believe our efforts are intimidation or coercion at all. It is a matter of trying to win some friends. We are trying to do it in a manner of a sales campaign. We are pleading for their help, sir.

I believe that this is an American right, and I believe that is one thing that shouldn't be taken away from anybody, to try to win some friends and influence them so that he will help us. We have tried to do this by telling the Kohler worker story. We have asked them to review the story, and to judge us.

In other words, the Kohler strikers and our families have placed themselves at the mercy of the American public. We have put our case in their hands for judgment. This is what this amounts to. They will judge whether we are right or wrong. We will stand on our record, sir. We certainly do not state that the Kohler Co. cannot tell its side of the story, because it certainly does so. In fact, they have many advantages that we haven't got in telling that story, and despite that, I feel confident that the people in America will separate the wheat from the chaff and make a decision one way or another.

I believe that this is the American way of doing things.

Senator MUNDT. May I say to you that my mail indicates that in your campaign to win friends and influence people you have lost a

considerable amount of ground by some of the tactics you have employed.

When you present your case, when you present the reasons for the strike, when you talk about the conditions you are trying to correct, or even when you are trying to induce people to buy union-made products, and to buy "label," buy all of that, I think you make progress and win friends. But I think you lose progress pretty fast when you have some of the statements made by some of the UAW officials about the churches, about the judges, about the people of Sheboygan, when we find that you have intimidated a little town council and some big city council officials, when you have exerted pressures on third parties.

It is like the man walking out in the corridor concluded yesterday, almost with tears in his eyes, he said "I was certainly impressed with what Senator Curtis said." He said "I happen to be a businessman who has practically been bankrupted by the boycott activities of the union."

He wasn't on your side or anybody else's side. He was trying to make a living like you are, like all of us are. So I think that you lose ground in this connection when you go to excesses.

I want to turn to something else. I think you said you earn, what, \$60 a week?

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. And you talked about 2 different kinds of expense accounts, 1 that was \$13 a day and 1 was something else.

Mr. BRIERATHER. That is only at the time when I go out of town for the union. That is the only time that I receive that, sir.

Senator MUNDT. You receive \$13 a day when you are out of town?

Mr. BRIERATHER. And in addition to the \$60, I do receive insurance coverage which is given to all strikers on the strike assistance, on strike rolls, and I also get my gasoline paid for for going back and forth from the office and home.

Senator MUNDT. Do you get any expense paid while you are in Sheboygan?

Mr. BRIERATHER. No, sir, no.

Senator MUNDT. What confused me was you said \$13 a day and then you said "and actual expenses." It seemed to me that you had two different types.

Mr. BRIERATHER. No.

Senator MUNDT. Of this \$60 a week, \$240 roughly a month, do you make any contributions of any kind to union funds?

Mr. BRIERATHER. Very little, sir. There isn't much left for contributions.

Senator MUNDT. I am sure that is right. I am just asking you, consequently, whether you made any.

Mr. BRIERATHER. No, sir.

Senator MUNDT. None at all?

Mr. BRIERATHER. No, sir.

Senator MUNDT. You said very little.

Mr. BRIERATHER. I may have contributed, but it would be negligible, sir. I haven't got that money at all.

Senator MUNDT. Well, I wouldn't think so. I am just asking the questions. It would seem to be pretty hard to live on \$240 a month be-

cause I presumed your family and you were accustomed to living with a little better income than that before the strike, a substantially better income.

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. Now I want to pass along. I have one other question on another aspect. The KWA, is that it, or KAW?

Mr. BRIERATHER. That was the Kohler Workers Association, sir.

Senator MUNDT. If I understood you correctly, this was, in your opinion, a company-dominated union at the time it was formed?

Mr. BRIERATHER. Very definitely, sir.

Senator MUNDT. And the initial officers were selected, I think you said, by the company, or they encouraged, at least, their selection or nomination?

Mr. BRIERATHER. The first three nominees were foremen, for president, for chairman.

Senator MUNDT. Are foremen members of the union?

Mr. BRIERATHER. No, sir.

Senator MUNDT. Can they belong to your union?

Mr. BRIERATHER. No, sir. They are supervision, sir. You have to bargain with them.

Senator MUNDT. We cannot always tell by a term just what a man's job is. I wanted to find out.

Then you testified, I believe, that there came a time when the Kohler union ceased to be company dominated.

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. How did a company-dominated union become an undominated?

Mr. BRIERATHER. This was a very gradual process, sir. Probably it was most noticeable after the war, when people returned from other places. You got younger people into the plant. They were not so apt to be——

Senator MUNDT. How many years did it take to make the transition from a company-dominated union to an independent union which was not dominated?

Mr. BRIERATHER. Well, sir, it would be hard to pinpoint a particular date, but I would say 1948, 1949, or 1950, somewhere around that period.

Senator MUNDT. I am not asking you that particular date. But how many years did it require to bring about the transition?

Mr. BRIERATHER. I would say about 16 years.

Senator MUNDT. In other words, it was formed about 1932?

Mr. BRIERATHER. 1933, I believe it was formed, sir.

Senator MUNDT. And it took 15 or 16 years. Then how long did it continue as an independent union after it ceased to be dominated by the company?

Mr. BRIERATHER. Until May of 1952, sir, when it affiliated with the UAW.

Senator MUNDT. So your description of the history of the KAW was that for about, roughly, 15 years, it was company-dominated and about the last 5 years it was run by the members of the union?

Mr. BRIERATHER. Well, it was starting to stand on its own feet, so to speak.

Senator MUNDT. Yes. I wanted to get that clear. I could tell from your testimony that you did recognize that there was a time when it was not company dominated, and it certainly sounded pretty clear to me that you thought that for the majority of the time you thought it was dominated by the company.

Now, what year were you editor of the strike bulletin, year or years?

Mr. BRIERATHER. From about May, the first week in May, of 1954, until I became boycott coordinator, about the second week of June 1955. But I was a member of the publicity committee all the—

Senator MUNDT. Just a little over a year?

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. As editor of the strike bulletin, you were in charge of its policies, I presume? There was nobody over you telling you what you had to do? You had freedom of the press to the extent that an editor runs his own plant, paper, right?

Mr. BRIERATHER. I would say more or less; yes, sir.

Senator MUNDT. Consequently, you were responsible for what went into the bulletin?

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. As any other editor has to be. Did you write most of it yourself or did you have quite a staff of assistants?

Mr. BRIERATHER. We had a publicity staff, but it would all go through me. They would give me their articles, and I would decide whether it goes in or stays out or whether it gets revised.

Senator MUNDT. Very good. Was it your policy as editor of the strike bulletin to tell the workers of Sheboygan the truth and the facts, or was it your policy as editor of the strike bulletin to put in a lot of falsehoods and propaganda, calculated to deceive them and to delude them and to continue the strike, whereas they might not have done that had they known the truth?

Mr. BRIERATHER. I wanted to kid nobody, sir. I was trying to tell the truth as much as I possibly could.

Senator MUNDT. You were trying to tell the truth?

Mr. BRIERATHER. Yes, sir. Because the other way you are in trouble pretty quick.

Senator MUNDT. You look like an honest young man and I was trying to find out. We have had periodicals and papers and publications, and mimeographed sheets, which we all know which are calculated to stir up people and to propagandize them and not primarily devoted to the truth.

I wanted to find out whether you were telling the truth in the strike bulletin. To the best of your knowledge, you were?

Mr. BRIERATHER. Yes. On a few occasions, I had to backtrack plenty fast, where it was not the truth when it went in. But I thought it was at the time I put it in.

(At this point, Senator Ervin withdrew from the hearing room.)

Senator MUNDT. When you put a false statement in the strike bulletin, did you do what good editors usually do, by retracting it publicly in the bulletin?

Mr. BRIERATHER. Yes; definitely.

Senator MUNDT. We all make mistakes and try to correct them. That is the best we could do.

Mr. BRIERATHER. Yes, sir.

Senator MUNDT. I appreciate that, because I have had a long discussion with other witnesses before the committee, some of them who have been pretty unkind in the strike bulletin. I didn't know who the editor was. I am pretty impressed by the editor of the strike bulletin. I think you were a good one. You have a fine command of the English language, and you were a dispassionate, objective, ardent advocate of your cause. I like people like that, if I agree with them or not.

Mr. BRIERATHER. Thank you, sir.

Senator MUNDT. Some of the other witnesses of the union have said that you couldn't believe what was published in the strike bulletin, that it was calculated just to kind of kid people along.

Mr. RAUH. Mr. Chairman, I object to this question on the grounds that there is not one iota of evidence after four weeks of sitting here to what Senator Mundt just said.

I think it is unfair, sir.

Senator MUNDT. I beg counsel's pardon. There is an abundance of evidence on what I was about to ask.

The CHAIRMAN. Would you proceed what you were going to ask?

Senator MUNDT. Yes. It would seem to me to ask the editor, et cetera, et cetera, because other witnesses from the union in answer to specific questions I have asked over and over again, 10, more than 11 times, I had asked questions about the veracity of stuff in the strike bulletin, and have been told in one way or another that you can't always believe what was published in the strike bulletin, that this was done to kid people along, that this was a hyperbole, an education, that couldn't be depended upon.

I, for example, as one reader of the strike bulletin, couldn't place reliance on it, because what was said there was false. There is no question in the world about that, Mr. Rauh.

The CHAIRMAN. The Chair will say that he will rule that he believes the record supports the foundation for the question, and, if Mr. Rauh desires, the record may be read.

Let the witness answer.

Mr. BRIERATHER. They couldn't say whether it was true from their own knowledge, sir. For instance, Emil Mazey, he would have no basis of saying whether something was true or false because he didn't write it.

Senator MUNDT. Emil, it seems, has done a lot of things that people are beginning to want to disavow, and I don't blame you for wanting to disassociate yourself for a lot of things that Emil Mazey has said. I commend you again. Now I come back to Leo. Did the union have secret agents in the Kohler plant, to the best of your knowledge?

Mr. BRIERATHER. No, sir, not secret agents as such. The word secret agent was a gimmick. We have many, many friends in the plant. We have many people in Sheboygan who were related to people within the plant. Just because they are in there doesn't mean that they are opposed to us.

Senator MUNDT. I know that the Dutchmen of Sheboygan have big families. Let's not go through the whole family album now. Let's just stick to this. Didn't the union have secret agents in the Kohler plant, as far as you know?

Mr. BRIERATHER. The very fact that we advertised it, sir, didn't make it very secret, sir.

Senator MUNDT. I don't know what you mean by that.

Mr. BRIERATHER. Well, sir, the moment you say that secret agent U-2 or Q. T. was in the plant, certainly if this was to be taken at face value, the Kohler Co. would know just the minute anybody else does, sir, and it doesn't become very secret.

Senator MUNDT. It would seem to me it was very secret if you have a man by the name of John Schmidt in the plant, but he is known to you as secret agent U-2, this is secrecy underscored and underlined and it is the iron fist in the silk glove.

It lets the Kohler Co. know "We have him. We identify them. We know their reports. We know them as U-2." And "Now, Kohler Co., you try to find out who they are."

That is secrecy, secret enough for me.

Mr. BRIERATHER. If you believe that secret agent Q-2 and Q. T. did divulge any information that could have been a secret, and there could have been a hundred different people, if not more, that had access to that knowledge, and the name itself implies the type of effect that we tried to produce.

Senator MUNDT. I do not want to break down the whole union case that it is trying to build against the Kohler Co., because it has secret agents. I have been pretty well convinced that the Kohler Co. had agents, that they hired detectives, that they ferreted out information when they could.

But if we adopt your rule that you don't have a secret agent once it tells somebody else what the secret is, then nobody has any secret agents in this business.

Mr. BRIERATHER. You can't compare the two, sir. Not at all. We made no effort to spy on anyone, to bring into his personal life. We didn't pay a dime to anyone, for any information or to anyone. We didn't solicit any information. Whatever we received was a purely voluntary basis.

Senator MUNDT. Secret agents have nothing to do about whether they are prying into personal lives, any financial records, inventories, working conditions, striker activities. It isn't the target that they are approaching. It is the method that they use.

There is nothing about a secret agent where you can say "This man is a secret agent because he was paid," and "This man is a secret agent because he is not paid."

A secret agent, and you know that as well as I do, is the fellow that is carrying information back, who is serving as an informant, and who is doing it under the cover of anonymity. That is a secret agent. Now, talking about that kind, your strike bulletin, for example, on June 25—

Mr. RAUH. Just a moment, Senator Mundt. You didn't give him a chance to answer.

Senator MUNDT. I didn't ask a question. Am I supposed to let him say something every time I say something?

Mr. RAUH. I would think so. That would be perfectly fair.

Senator MUNDT. I haven't gotten around to even asking the question yet. I am pointing out that the strike bulletin of June 25—

The CHAIRMAN. Whenever the Chair hears a question, the Chair will give the witness a chance to answer.

Senator MUNDT. Any time I have asked one that he hasn't completed, I would like to have the counsel stop me. But I don't want him to stop me every time I start.

The strike bulletin of June 25, 1954, says:

The secret agents are handing in reports about the new independent union being formed inside the Kohler plant.

True or false, Leo?

Mr. BRIERATHER. What was it, sir? I am sorry.

Senator MUNDT. I will have the reporter read it.

(The pending question, as requested, was read by the reporter.)

Mr. BRIERATHER. We had reports stating——

Senator MUNDT. Mr. Leo, I would like to have you answer the question. Tell me if it is true or false and then you can talk just as long as you want, as long as the Chair will let you. But I want you to answer the question. The question was: True or false?

Mr. BRIERATHER. I would say it is true.

Senator MUNDT. All right. Now go ahead.

Mr. BRIERATHER. But I would like to qualify the secret agent, sir. We didn't solicit this information. We didn't pay for it, sir. Whatever information we got was purely voluntary.

Senator MUNDT. That——

Mr. BRIERATHER. We had no organization within the plant. Whatever information we got we got because people voluntarily told us so.

Senator MUNDT. On the second part of that, your testimony jibes completely with what I got from other witnesses. On the first part it is as far away as yes is from no. I am going to accept your word for it. I am going to believe you. I am not even going to ask on this one that the Department of Justice try to figure out who is per-juring himself. You are convincing me you are telling the truth. And the whole record of facts indicates you are telling the truth in this, because you said you did have the secret agents. But you said they were voluntary. I accept that. I don't think you were paying them. They brought up the information and without being told specifically what to get. I accept that.

The strike bulletin of June—Mr. Rauh, why don't you talk up so I can hear you. There is certainly no legal advice about some comment I am making and I am not soliciting your advice.

Mr. RAUH. There is always legal advice on when a witness has a chance to speak, and particularly when you so unfairly keep him from speaking.

Senator MUNDT. I can't think of a witness in a long while who has had more freedom to speak than Leo has. I am giving him that right so he can answer these questions. I am simply going to insist that before he adds the amplification, he answer the question.

The strike bulletin of June 24, 1954, "Agent Q," and you mentioned him. I wouldn't ask you to identify him.

Agent Q reports that the Kohler Co. insists that the various trucking companies cross over picket lines with material or they will suffer the company's displeasure in future business.

Here is an agent who has gotten pretty close to the inside because he knew what the Kohler people were thinking. He reported it to you, and you faithfully and honestly reported it to the people who read the strike bulletin.

So that at that time, to the best of your belief, you were telling the people of Sheboygan the truth in your strike bulletin, I take it, when you said, "Agent Q reports that the Kohler Co. insists that the various trucking companies cross our picket line."

To the best of your effort, you were trying to report the truth.

True or false?

Mr. BRIERATHER. True. But I would like to point out in all of these cases the agent U-2 and Q. T. was a term, sir.

(At this point, Senator Goldwater entered the hearing room.)

Mr. BRIERATHER. The words replace to say, "Information we have received" says this. It is a term on each item.

We are not pointing to a specific person when we use this term. The mere fact that we use gimmicks like U-2 and Q. T. and 2-U, implies that. We used Agent Q. T. several times and it could be an entirely different individual.

(At this point, Senator Erwin withdrew from the hearing room.)

Senator MUNDT. Would you like to tell us the proper name of Agent Q?

Mr. BRIERATHER. There is no such agent, sir. I just pointed out there is no such agent.

Senator MUNDT. You preceded what you said by telling me that you were telling the truth in the strike bulletin when you reported on Agent Q.

Mr. BRIERATHER. As much as I possibly could. This information was given to us by many, many people, over the telephone, and very often obviously wrong stuff. We had our strikers find out as much as they could in town, and they would report to us. We would have piles of information to try to analyze, and try to give as true an account as we could.

Senator MUNDT. Did you do any radio broadcasting in your capacity as either editor of the strike bulletin or as one of the strikers?

Mr. BRIERATHER. Yes, sir; as a member of the strike committee.

Senator MUNDT. I want to read you a transcript of a paragraph that you made in a radio broadcast on July 7, 1955.

This is with reference to the clay boat incident of July 5. Quoting Leo now on the radio:

Meanwhile Lyman Conger is filling up the newspapers with statements that the Kohler Co. does not need the clay to continue production. The secret agent reports from the plant—

and I will repeat that, maybe there was confusion but I want it very clear:

The secret agent reports from the plant do not uphold these statements, however.

According to these reports, the clay is desperately needed.

Did you make that statement?

Mr. BRIERATHER. I imagine I did, sir. I would say I did.

Senator MUNDT. And you are not the type of fellow who would get up on the radio and tell the people of Sheboygan the secret agent reports from the plant, if you hadn't had such reports, would you?

You wouldn't just fabricate a story?

Mr. BRIERATHER. I had such reports. I was later told that I was wrong, though, but at the time I thought these were true, sir.

And I gave them in good faith.

Senator MUNDT. May I tell you that even the best espionage protection that we can develop in government, the CIA, getting reports from abroad, of the best informants, of the best secret agents, the best detective agents, sometimes make mistakes.

So, of course, sometimes you might inadvertently report something not based on fact, but you thought it was a fact at the time you said it because the agents had told you so at that time.

Mr. BRIERATHER. The best secret agency wouldn't make a mistake like that, sir. This was very easy to determine, whether there was enough clay out there or whether there wasn't. Apparently our information was wrong, sir.

Senator MUNDT. I think the best secret agents in the world can make mistakes at times. They do.

Mr. Chairman, I am willing to rest at this point in the testimony. I have been trying to develop this across the period of witnesses. I will accept the validity of what this witness has said. I think he has told us the truth on this matter. I think that there were secret agents on both sides of this controversy. I don't know whether secret agents are proper or improper in a strike. I am not an expert. But I think it is pretty clear that both sides are trying to get information on the other side.

They do that in politics, and you do that in a lot of other places. I don't know whether it is proper or improper in a strike, but I think the record is crystal clear that there were efforts made, sometimes successful and sometimes unsuccessful.

I am not arguing that they were the same efforts. Each according to his means, each according to his ability, each according to his purpose, was trying to find out something about the other fellow's program of activity.

The CHAIRMAN. Are there any further questions or comments by members of the committee?

Mr. BRIERATHER. Mr. Chairman?

The CHAIRMAN. Just a moment.

All right, the Chair will hear you.

Mr. BRIERATHER. May I point out once again that we made no attempt to organize a secret agent force within the plant; that we didn't pay a dime to anyone. Whatever information we received was voluntary and we certainly didn't reject it. We will admit to that, sir.

The CHAIRMAN. All right. Thank you, sir.

Senator MUNDT. I wanted to clear up so that Leo did not misunderstand me. I never alleged any time or suggested that these were paid informants.

Senator GOLDWATER. Mr. Chairman?

The CHAIRMAN. Senator Goldwater.

Senator GOLDWATER. Leo, I don't know whether you are the one to ask these question of or not. If you can't answer, just say so, and I will save this interrogation for Mr. Rand. I am interested, very interested, in the ability of the UAW to reach its long arms into various communities of this Nation, into counties, and even attempts at a State legislative level, to get legislation passed in the form of restrictive ordinances against the Kohler Co., of Sheboygan, Wis.

In your capacity as director of the boycott, does this function come under your jurisdiction?

Mr. BRIERATHER. It did, sir.

Senator GOLDWATER. Let me ask you a question. I have here a photostatic copy of a resolution passed by the City Council of Bristol, Conn. I want to read it:

Whereas the Kohler Co., of Sheboygan, Wis., has refused to meet with Federal and State mediators to settle the 2-year-old strike at their plant, and has rejected truce efforts by church leaders and community groups, and has turned down ways of settling this dispute recommended by Federal judges and United States Senators and rejected the suggestions of the Governor of Wisconsin to arbitrate the issues, therefore, be it resolved that the City Council of the City of Bristol give notice to all contractors doing business with the city of Bristol that they cannot use Kohler products on any job contracted for by said city; that all city boards and departments are hereby notified that it is their obligation and duty to see that the intent and purpose of this resolution is carried out.

Did you have charge of that particular resolution?

Mr. BRIERATHER. I didn't have charge of that particular resolution, sir, but I have sent out many, many requests to all departments of organized labor, to all central labor councils, to all CIO councils, asking them, encouraging them, to contact their city councils and see if we couldn't get their sympathy, sir.

So in a broad sense I had charge of that particular one.

Senator GOLDWATER. Do you think that is a proper thing to do?

Mr. BRIERATHER. Well, sir, I believe that we Kohler strikers are citizens just like anyone else, and I certainly believe that we can approach a city government to ask them to consider a resolution like that.

Senator GOLDWATER. Let's suppose that the city of Bristol were in the process of building a building and they called for bids on equipment such as Kohler makes, and Kohler was the low bidder, substantially the low bidder, this ordinance would prevent the taxpayers of Bristol enjoying the savings on the Kohler bid. Is that not true?

Mr. BRIERATHER. Well, sir, when they are calling for bids, they become a consumer, and as a consumer we feel that they have a choice, that they can exercise that choice, and, if they chose to use unionmade products, for the reason that they are unionmade or because they might be of better quality or for any other reason, they certainly have that choice as a consumer and as a buyer.

This is what we were asking them to do, sir. This is the approach we made.

Senator GOLDWATER. But by this type of resolution, you have denied the council one of the choices. In other words you have restricted it to all the companies with the exception of Kohler.

Mr. BRIERATHER. They are making that choice at the point they either adopt or reject the resolution, sir.

Senator GOLDWATER. How does the union go about putting the heat on a city council to get this done?

Mr. BRIERATHER. The heat, sir?

Senator GOLDWATER. Yes. That is a good word.

Mr. BRIERATHER. If it applies to this activity, then I would call all political activity heat, sir.

(At this point, the following members were present: Senators McClellan, Mundt, Curtis, and Goldwater.)

Senator GOLDWATER. You are exactly right, and so if you want me to use another word, I can use "elbow" or "arm," but "heat" is a good

word. How do you go about putting the heat on a city council to get them to say that Kohler products cannot be installed in the city?

Mr. BRIERATHER. Well, the only possible thing that I could think of is if the citizens of the community tell what choice they would like to have. In other words, the taxpayer himself certainly can indicate to his aldermen or representatives or whoever the person might be what he would recommend.

If he would recommend adoption of the resolution, that is "heat," sir, and if he would recommend that the resolution would not be adopted, that would also be "heat."

Senator GOLDWATER. How do you go about doing that though? You ask the local union to do it?

Mr. BRIERATHER. We ask the local union to tell the story of the Kohler strike in order so that everyone can understand what our request is for, and what it is about, so that any individual who is interested in it can make a decision on where he stands and exercise his privileges or his "heat" so-called, according to his own conscience.

Senator GOLDWATER. Well, now, there is a possibility and I know that you don't want it any more than I do, that there might be a strike by the UAW against part of the auto industry. Would it not be possible under this type of political activity to prevent the purchase, and let us say that Ford Co. is struck by UAW—would it not be possible assuming that this could be done nationwide, to prevent the purchase of Ford cars and trucks by any agency of the Government?

Mr. BRIERATHER. Not as easily as you make it seem, sir. You still have to make a choice.

Senator GOLDWATER. I am using a hypothetical case, and it would not be easy to do but you have been able to do it in a number of communities. Let us say that you put on a little more "heat" in the case of the Ford Co. Would it not be possible in your mind to stop the purchase of Ford equipment?

Mr. BRIERATHER. It is possible, but it is not probable, sir.

Senator GOLDWATER. Would you think that that would be a proper thing to do, in your mind?

Mr. BRIERATHER. Well, sir, on the contrary, if you would prohibit that you would be certainly taking away a privilege of the Ford workers, so to speak, to tell their story and to try to make their feelings known and make a request, sir.

Senator GOLDWATER. Well now, how many organizations in the country have that power, and that privilege, to get that done?

Mr. BRIERATHER. All people have that privilege, sir. Everyone has that privilege. I can go as a citizen to any common council and introduce a resolution.

Senator GOLDWATER. How many of them have the power of organized labor behind them, to get it done?

I as an individual businessman, I can assure you, could not get it done in my own city council. and I don't think many businessmen have much luck alone.

Mr. BRIERATHER. Well sir, an individual cannot be compared with your term of power of the union, and it is the reason we join a union, sir, because there is nothing more feeble than the individual, if he tries to get something done.

This is why you join a union, so that you can avail yourself of the collective efforts of everyone.

Senator GOLDWATER. Now, wouldn't this reach a point where you would call it restraint of trade?

That is where you by the power of the union are denying the sale of a manufactured product? Wouldn't you call that restraint of trade?

Mr. BRIERATHER. I would say it would be in a very democratic manner, and if you term that restraint of trade—when you are making an appeal and you are going through the democratic procedures, I don't know.

Senator GOLDWATER. Is it restraint of trade or not in your opinion?

Mr. BRIERATHER. Isn't that a legal interpretation, sir? I would not know.

Senator GOLDWATER. Well, I ask that for this reason: I have a number of these here, and I am not going to go into them with you because I think Mr. Rand can give us additional answers on them.

It seems to me that this is a clear-cut case of the need to put some restraint on the unbridled power of labor unions. I think this is definitely restraint of trade, and I think it is just as clearly a restraint of trade as if two major corporations got together to restrain trade, and there are laws against that.

You might not agree with me, but whenever you prevent the sale of anything in this country by force, that is a clear-cut case to me of restraint of trade and I think personally, expressing my own opinion, that it is one of the major things that will come out of this series of hearings, this uncontrolled power that now vests in the labor movement.

Mr. RAUH, I am not talking to you.

Mr. RAUH. I was just going to make an observation.

Senator GOLDWATER. I did not ask you for an observation.

Mr. RAUH. I was going to say or may I observe that there is legislation pending to do exactly what Senator Goldwater stated about the unfair labor practices, to prevent the Federal Government from buying products where there are charges of unfair labor practice.

So I don't suppose it is so outrageous if a Senator of the United States has actually proposed this be made a rule of law here.

The CHAIRMAN. Well, this is all discussion and argument, and let us get the facts, and then the whole Senate will argue about it. Let us move along.

Are there any other questions? Are there any further questions of this witness.

The witness is excused. Call the next witness.

Mr. BRIERATHER. May I say that I would like to thank you and the members of the committee for this opportunity and certainly for the courtesy extended to me to let me attempt to tell the story of the Kohler workers as I saw it.

The CHAIRMAN. All right, sir, thank you.

Senator MUNDT. Let me say that you have been a very impressive and self-possessed and persuasive witness. In my opinion you have been the best witness so far produced by the union regardless of rank and regardless of salary.

Mr. BRIERATHER. Thank you, sir.

The CHAIRMAN. That is a very high compliment for you. You can be proud of that.

Call the next witness.

Mr. KENNEDY. Mr. Leroy Taylor.

The CHAIRMAN. Will you be sworn, please?

You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TAYLOR. I do.

**TESTIMONY OF LEROY TAYLOR, ACCOMPANIED BY HIS COUNSEL,
THOMAS E. SHROYER**

The CHAIRMAN. State your name, and your place of residence, and your business or occupation.

Mr. TAYLOR. My name is Leroy Taylor, and I live at 2520 North 22d Street, Sheboygan, Wis. I am a driver for the J. L. Scheffler Transport Co.

The CHAIRMAN. A driver for whom?

Mr. TAYLOR. J. L. Scheffler Transport Co.

The CHAIRMAN. Do you have counsel with you?

Mr. TAYLOR. Yes, sir.

Mr. SHROYER. Thomas E. Shroyer, Commonwealth Building, Washington, D. C.

The CHAIRMAN. Thank you very much, sir.

All right, Mr. Kennedy.

Mr. KENNEDY. That is S-c-h-e-f-f-l-e-r?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. It is motor transport company?

Mr. TAYLOR. That is right.

Mr. KENNEDY. Where is that company?

Mr. TAYLOR. That is located in 1801 West Fulton Street, Chicago, Ill.

Mr. KENNEDY. How long have you been driving for them?

Mr. TAYLOR. Right on 6 years, sir.

Mr. KENNEDY. Were you driving trucks into the Kohler plant?

Mr. TAYLOR. Yes, sir; I was.

Mr. KENNEDY. And how long have you been performing that duty or task?

Mr. TAYLOR. Shortly after the strike was in effect, sir.

Mr. KENNEDY. You started driving into the Kohler plant?

Mr. TAYLOR. Shortly afterward.

Mr. KENNEDY. Are you a member of a union?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. What union?

Mr. TAYLOR. I am in 710, an AFL local.

Mr. KENNEDY. Is that a teamsters local?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. And who is the head of that union, 710? That is 710 in Chicago?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Who is the head of that?

Mr. TAYLOR. John O'Brien is the secretary-treasurer, sir.

Mr. KENNEDY. Mr. John O'Brien?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. He is the secretary-treasurer?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. What instructions did you receive from the union regarding the picket line outside of the plant?

Mr. TAYLOR. I did not receive any definite instructions from the union, but Mr. Scheffler had talked with the business agent of this local, of the Chicago local, and the business agent had made a statement to Mr. Scheffler that our union was not on strike and neither was the Scheffler Transport Co., and Mr. Scheffler instructed me to go into the plant.

Mr. KENNEDY. Who was the the business agent?

Mr. TAYLOR. The business agent was Mr. Keegan.

Mr. KENNEDY. Mr. Keegan?

Mr. TAYLOR. Yes.

Mr. KENNEDY. He is of local 710?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. You were carrying goods in and out of the Kohler Co. then during the period of the strike?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Were you followed at all when you were carrying goods in or out of the Kohler Co.?

Mr. TAYLOR. Yes, sir; I was.

Mr. KENNEDY. When did that start, as far as you were concerned personally?

Mr. TAYLOR. Well sir, on one occasion we were followed all of the way from the Kohler plant, as soon as I pulled out with this trailer, all of the way to our Chicago terminal.

Mr. KENNEDY. When was that, the first time that you were followed?

Mr. TAYLOR. I don't remember the date, sir.

Mr. KENNEDY. Approximately, can you give us the month?

Mr. TAYLOR. I could not, sir.

Mr. KENNEDY. Was it in 1954?

Mr. TAYLOR. I believe it was in 1954, sir.

Mr. KENNEDY. And you were followed, and I am coming back to that trip, but over what period of time were you followed? You were followed on other occasions, were you not?

Mr. TAYLOR. I would say over a period of about 3 months for myself, sir.

Mr. KENNEDY. And how many times were you followed during that 3-month period?

Mr. TAYLOR. I believe it was three times, sir.

Mr. KENNEDY. Now you are telling us about the first time, is that right?

Mr. TAYLOR. That is right.

Mr. KENNEDY. You say that they followed you once as you came out of the Kohler Co., and followed you all the way to Chicago?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Now, did they harass you or cause you any trouble as you were traveling to Chicago?

Mr. TAYLOR. No.

Mr. KENNEDY. They just followed behind you?

Mr. TAYLOR. That is right.

Mr. KENNEDY. What happened once you got to Chicago?

Mr. TAYLOR. Well, when we arrived at our Chicago terminal, there were 2 other drivers also, sir, there were 3 drivers in all that were followed. When we got to our terminal in Chicago, these different men, and I did not know who they were, got out of their station wagon and they started immediately picketing Mr. Scheffler's trucking terminal.

Mr. KENNEDY. How would they do that?

Mr. TAYLOR. Pardon me.

Mr. KENNEDY. How was that accomplished? Did they have signs?

Mr. TAYLOR. They had signs and different banners.

Mr. KENNEDY. Did they hand leaflets out?

Mr. TAYLOR. I didn't see them hand any leaflets out.

Mr. KENNEDY. What would the signs say, as an example?

Mr. TAYLOR. Well, something about scabs and not buying Kohler products and such as that.

Mr. KENNEDY. And this place that they were picketing was the home office of the Scheffler Trucking Co.?

Mr. TAYLOR. That is correct, sir.

Mr. KENNEDY. How long did they remain as pickets, do you know? How long did the pickets remain?

Mr. TAYLOR. Well, they were not there too long. Mr. Scheffler approached them and talked with them, and I would say they were there approximately 1 hour.

Mr. KENNEDY. Do you know who was in charge of the pickets?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. You don't know any of the people who were following you?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. How many of them were there?

Mr. TAYLOR. I believe there were seven.

Mr. KENNEDY. Were they joined by anyone, once they got there?

Mr. TAYLOR. No, sir; I don't believe so.

Mr. KENNEDY. Just the seven of them marched up and down in front of the Scheffler Trucking Co.'s office?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Did they cause you any personal difficulty while they were there?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. Did you have any more trouble with this particular group at that time?

Mr. TAYLOR. No, sir; I did not.

Mr. KENNEDY. Now, you were followed again, after that, is that right? That was the first occasion. Was there anything else about that first occasion that you think would be helpful?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. Then you were followed a second time?

Mr. TAYLOR. Well, it wasn't that I was followed, sir, but this other driver, Peter Sussano I believe is his name. I was parked on the north side of Milwaukee, going to the Kohler Co., and I was pulled off the road into this gas station, and he came in with his trailer, and he pulled up alongside of me, and he had told me that a car almost ran him over.

Now, he had been in this restaurant, and he had walked across the street to get to his truck, and he told me he had to jump on the running board to keep from getting hit by this car.

Mr. KENNEDY. Did he describe the car at that time?

Mr. TAYLOR. He told me it was a convertible, sir, and the top was down, and in a few minutes after he came there, this same car pulled into this driveway of this gas station, where I was parked.

Mr. KENNEDY. Did he identify the car as being the same one?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. And the top was down?

Mr. TAYLOR. The top was down, and it was raining, and there was no license plate on the car.

Mr. KENNEDY. It was rather unusual?

Mr. TAYLOR. Yes, sir. I had asked the driver, and, well, this driver would continually try and more or less aggravate us.

Mr. KENNEDY. What would he say to you?

Mr. TAYLOR. He was cursing and calling us different swear words, different names.

Mr. KENNEDY. Indicating you were carrying products to the Kohler Co., and it was connected with that?

Mr. TAYLOR. That I couldn't say.

Mr. KENNEDY. Well, did he say anything about the Kohler Co., or being scabs?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. Just swearing at you?

Mr. TAYLOR. Just cursing and trying to aggravate us.

Mr. KENNEDY. For what reason did he say?

Mr. TAYLOR. He didn't say, sir.

Mr. KENNEDY. Well, was there any connection between what he was saying and the strike that was going on at the Kohler Co.?

Mr. TAYLOR. No, sir, there was no indication.

Mr. KENNEDY. That it had anything to do with the strike?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. Well, he just got out and started swearing at you?

Mr. TAYLOR. He was in the car, and this other fellow was in the car with them.

Mr. KENNEDY. Did you inquire as to what it was all about, when this man in the convertible, while it was raining——

Mr. TAYLOR. I asked this man where the license plate was for his car, because I was going to call the police and give them the number, but I couldn't do so because there was no license plate.

Mr. KENNEDY. Did you ask him why he was swearing at you?

Mr. TAYLOR. No, sir, I did not. It was just such a silly thing.

Mr. KENNEDY. He pulled up in the rain, in a convertible with the top down?

Mr. TAYLOR. That is right.

Mr. KENNEDY. And started swearing at you for no reason?

Mr. TAYLOR. He started swearing at this other driver and myself; that is right. That is what happened.

Senator MUNDT. Did you conclude from that strange incident that he was cussing you out because you were driving a truck with Kohler products?

Mr. TAYLOR. That was my conclusion, sir.

Senator MUNDT. Could you think of any other reason why he would be swearing?

Mr. TAYLOR. No, sir.

Senator MUNDT. In view of the fact that you had been followed by some of these strikers before, that was rather a logical conclusion, was it not?

Mr. TAYLOR. Yes, sir.

Senator MUNDT. He was cussing you out for that purpose?

Mr. TAYLOR. Yes, sir.

Senator MUNDT. It would seem that way to me.

Mr. TAYLOR. Yes, sir.

Senator MUNDT. You really wouldn't have to ask him why he was doing it?

Mr. TAYLOR. No, sir.

Senator MUNDT. He probably wouldn't have told you anyhow.

Mr. TAYLOR. I told this other driver, I said, "Let us go to our truck and go," and as we were walking to our trucks this car had proceeded to leave, and we were driving down the road, Route 41, going to the Kohler Co., and I had noticed this same car driving back south.

Senator MUNDT. The same convertible with the top down, driving in the rain?

Mr. TAYLOR. That is correct. Then we were proceeding to the Kohler Co., and then I saw this car turn around, and I was watching the car in my mirrors, and I had noticed this car had turned around.

Senator MUNDT. Through your rear-view mirror?

Mr. TAYLOR. That is correct, sir. And this car pulled alongside of me, and he was pulling alongside of me, and this fellow that was in the car, not the driver but this other fellow, I noticed he was standing up holding on to the windshield and he had something in one hand.

Now, I don't know if it was his idea to try and throw that through my windshield or what, sir, but as he came alongside of me, I could see him standing up and ready to throw this object.

Senator MUNDT. What did he seem to have in his hand?

Mr. TAYLOR. It was a long object, and I couldn't make it out at that time, but he threw this object at me, and I could tell by the way it hit that it was a length of pipe.

Senator MUNDT. He threw a length of pipe at you?

Mr. TAYLOR. Yes, sir, that is correct.

Senator MUNDT. At the cab?

Mr. TAYLOR. At the cab of my tractor.

Senator MUNDT. At the windshield?

Mr. TAYLOR. He hit the door of my tractor.

Senator MUNDT. Well, let me ask you this: You have been a truck-driver quite a while, and what would be your opinion of the effect of a fellow coming along at night throwing a length of pipe through a windshield of a moving truck? You would be in pretty serious trouble?

Mr. TAYLOR. Well, if the pipe had gone through my windshield, I imagine I would probably lose control of the vehicle and go off the road.

Senator MUNDT. Go ahead and tell what happened. It hit the door and what did you do? Did you swerve the car out of the way?

Mr. TAYLOR. Yes, sir. I saw him starting to throw this object, and

I cut over into the car to try and discourage him. I was trying to protect myself.

Senator MUNDT. If you had hit him, you would have discouraged him?

Mr. TAYLOR. I imagine so.

Senator MUNDT. Do you think your swerving over perhaps disrupted his aim a little bit?

Mr. TAYLOR. That was my idea, sir.

Senator MUNDT. And so he didn't get the pipe through the windshield and hit the door instead?

Mr. TAYLOR. That is correct.

Senator MUNDT. How many men were in that car?

Mr. TAYLOR. There were two, the driver and another man sitting next to the driver.

Senator MUNDT. And of course it wouldn't be the driver but the other fellow pitching the pipe?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Now, would he be able to tell or would they be able to tell that you were carrying products to the Kohler Co. or going to the Kohler Co.?

Mr. TAYLOR. I don't know how, sir, he would do it.

Mr. KENNEDY. But they might have known from where you left, or the fact that they knew that this trucking company was carrying products into the Kohler Co., they might have been able to tell from that and it would have been possible for them to know?

Mr. TAYLOR. Due to the fact that it was a Scheffler truck, he would know that.

Mr. KENNEDY. And that is my point. He could have told from the fact that there was a Scheffler truck on this Milwaukee road, in this direction that it was going to go to the Kohler Co.?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Now, did you report this to the police or report it to the Kohler Co.?

Mr. TAYLOR. I reported this incident to the Kohler Co., sir.

Mr. KENNEDY. And was a report made to the police, do you know?

Mr. TAYLOR. That I don't know, sir.

Mr. KENNEDY. Now, did you have any other experience, a third experience?

Mr. TAYLOR. Yes, I did, sir.

Mr. KENNEDY. Would you relate what happened?

Mr. TAYLOR. Well, this was at night, sir, and I was coming down this road. This incident happened roughly about around 7 miles from the Kohler plant, and there was a car parked on the shoulder of the road, and as I passed this car, I don't know if it was a signal to this group of people who were waiting or what, sir, but as I got down on the road, this car put on the lights, just immediately after I passed this car, and I had my bright lights on, and I noticed objects in the road.

It looked to me like it was tree stumps, sawed tree stumps, and I pulled over to the shoulder of the road to try and miss these as much as possible, and in doing so there was one fender; that is, the left fender was slightly damaged, and also I blew a tire out.

Now, I reported this incident to the Kohler Co. and also to Sheriff Mosch. He inspected the tires and the vehicle itself.

Mr. KENNEDY. This was at night?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. About what time?

Mr. TAYLOR. I don't remember the time exactly, sir. They would have that.

Mr. KENNEDY. Approximately, was it early in the morning or was it at 10 o'clock at night, or 4 a. m.?

Mr. TAYLOR. It was in the early hours of the morning.

Mr. KENNEDY. 2 a. m.?

Mr. TAYLOR. No, I couldn't exactly say if it was 2 a. m.

Mr. KENNEDY. And there was snow falling, was there?

Mr. TAYLOR. Yes, sir.

Mr. KENNEDY. And you came over the top of a hill?

Mr. TAYLOR. Yes, sir, and there was a dropoff, and we leveled out right after I came over the hill, and there was a dropoff on the section of the hill.

Mr. KENNEDY. At that time there were objects in the road in front of you?

Mr. TAYLOR. Right after I came down the hill.

Mr. KENNEDY. That is when you had to pull off to the side?

Mr. TAYLOR. I pulled over to the shoulder as much as I could, but due to the fact that it had snowed I didn't want to go over too far, and I would slide over into the ditch.

Mr. KENNEDY. That is the time that the tire blew out, and you damaged the fender?

Mr. TAYLOR. That is right.

Mr. KENNEDY. Now, did you feel this arose out of the Kohler strike?

Mr. TAYLOR. I did, sir.

Mr. KENNEDY. You never had an experience like this before?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. And you reported that to the Kohler Co., and to the sheriff?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. Was anybody ever apprehended in connection with this?

Mr. TAYLOR. I had not heard, sir.

Mr. KENNEDY. Did you have any other experiences?

Mr. TAYLOR. Not to my knowledge, sir.

Mr. KENNEDY. Did you have any telephone calls?

Mr. TAYLOR. No, sir. I did not live in Sheboygan at that time.

Mr. KENNEDY. You lived in Chicago?

Mr. TAYLOR. That is correct.

Mr. KENNEDY. And these are the three times that you had some experience on the road and carrying Kohler products?

Mr. TAYLOR. That is right.

The CHAIRMAN. Mr. Taylor, do you have any doubt at all that these three experiences you have testified to, the abuse that was heaped upon you by these men, and by their profane and insulting language, and the attempt to drive you off the highway, and the throwing of an iron, a piece of iron at you and trying to hit your windshield, do you have any doubt at all that the union was back of these efforts to intimidate, coerce, and threaten?

Mr. TAYLOR. Well, sir, I believe that all of these incidents that occurred to me came from this Kohler strike.

The CHAIRMAN. It all emanated from the strike?

Mr. TAYLOR. Yes, sir; I believe so.

The CHAIRMAN. You don't think the Kohler Co. or people sympathetic to Kohler were doing that to you, do you?

Mr. TAYLOR. Oh, no, sir.

The CHAIRMAN. Oh, no?

Mr. TAYLOR. No.

The CHAIRMAN. Do you have any information that the union as a union was sponsoring or encouraging this sort of terroristic activity?

Mr. TAYLOR. Not to my knowledge, sir, and I couldn't say.

The CHAIRMAN. Do you know whether these men who engaged in these acts against you were members of the union?

Mr. TAYLOR. That I don't know, sir.

The CHAIRMAN. You do not know whether they were strikers or not?

Mr. TAYLOR. No, sir, I do not.

The CHAIRMAN. Can you identify them?

Mr. TAYLOR. No, sir, I couldn't.

The CHAIRMAN. You do not know who they are?

Mr. TAYLOR. No, sir.

The CHAIRMAN. You got no information at the time?

Mr. TAYLOR. No, sir.

The CHAIRMAN. Were you placed in a state of fear or apprehension by reason of these acts that you have testified to?

Mr. TAYLOR. Well, it is only natural, sir.

The CHAIRMAN. Sir?

Mr. TAYLOR. It is only natural, sir, that with incidents happening like this, you would be a little afraid, yes.

The CHAIRMAN. You were apprehensive?

Mr. TAYLOR. Yes, sir.

The CHAIRMAN. I am sorry.

The committee has to recess and go over to vote. Looking at the time here, I guess we had better try to come back today at 1:30.

(Whereupon, at 11:40 a. m., the committee recessed to reconvene at 1:30 p. m., the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

At this point we will recess temporarily the hearing involving the Kohler Co.-UAW strike, and proceed to another subject matter.

(Brief recess.)

The CHAIRMAN. Call the next witness, and now the committee resumes its hearing in the Kohler Co.-UAW matter.

Mr. KENNEDY. Mr. Taylor, will you come around, please.

(Members of the committee present at this point in the hearing were: Senators McClellan, Ervin, Goldwater, Mundt and Curtis.)

TESTIMONY OF LEROY TAYLOR—Resumed

The CHAIRMAN. Will you have a seat. You were sworn this morning, and you were in the process of testifying when we recessed at noon.

All right, Mr. Counsel, proceed, or had you concluded?

Mr. KENNEDY. There was one other matter.

Senator MUNDT. May I say, just so that the people out watching this on television and radio and the folks in the committee room do not feel that the members over here have no interest in this restaurant situation, the only reason we didn't participate in the inquiry is that we didn't know this was coming up today, and we didn't have the background and so it caught us entirely unprepared.

The CHAIRMAN. The Chair may say he didn't know it was coming this day and it was one of those things that we have to deal with sometimes in an emergency.

Senator MUNDT. I think it deals with a very important situation, but I didn't want the fact that we took no part in it to indicate we had no interest in it. But it was new to us and it just appeared in the newspapers.

The CHAIRMAN. This was largely a procedural matter at this time.

Senator MUNDT. Now, Mr. Taylor, how long have you been a trucker.

Mr. TAYLOR. Pardon me.

Senator MUNDT. A trucker?

Mr. TAYLOR. A truck driver, you mean. I have driven since I was sixteen and a half years old, sir.

Senator MUNDT. Fifteen or twenty years or longer?

Mr. TAYLOR. I have been driving for about 20 years.

Senator MUNDT. In your long career as a truck driver, had you ever had a series of experiences such as those which you described in response to the questions asked you by the counsel and by the chairman at this morning's hearings?

Mr. TAYLOR. I have had no other experiences other than this incident that happened since the Kohler strike.

Senator MUNDT. In your whole career of more than 20 years of truck driving?

Mr. TAYLOR. That is correct.

Senator MUNDT. As far as you know, do you have any personal enemies in that area, who might have been trying to wreck your truck, or throw a gas pipe through the windshield, or in any way else embarrass or injure you? Have you made some personal enemies up there so this could have been a sort of personal vendetta?

Mr. TAYLOR. No, sir, I have no one.

Senator MUNDT. Has anybody ever made any threats against you, and do you know of anybody who might be out to get you, and have you been in any personal troubles with some people up there?

Mr. TAYLOR. I have no other personal troubles at all, sir, other than this.

Senator MUNDT. I believe you testified you don't live in Sheboygan and you live in Chicago?

Mr. TAYLOR. I live in Sheboygan at the present, sir, but at the time the strike started I lived in Chicago.

Senator MUNDT. Were you doing anything at all insofar as your activities on these trucks were concerned other than to try to earn a living for yourself or your family?

Were you participating as a strike breaker or what they call a scab, or anything of that nature, or were you simply trying to earn a living working for this employer of yours, carrying whatever merchandise happened to be assigned to your route?

Mr. TAYLOR. The only purpose for me driving a truck was my living, sir.

Senator MUNDT. You described a pretty serious occurrence, it seems to me.

How fast were you driving down the highway when this man came along behind you and threw this gas pipe at you?

Mr. TAYLOR. Well, I would say, I wanted to be sure that I could see what he was going to do, and I naturally slowed the tractor up, and I was driving, I would say, probably between 30 and 40 miles an hour.

Senator MUNDT. If you run a tractor at 30 or 40 miles an hour into a ditch on the side of the road, is it a big enough vehicle so that a man is apt to get pretty badly injured or perhaps killed?

Mr. TAYLOR. That is correct, sir.

Senator MUNDT. Why do you think that they attacked you?

Mr. TAYLOR. Well, it was my idea that this all come from this Kohler strike.

Senator MUNDT. Can you think of any other reason at all why you would be, three different times, molested on the highway, or one of them actually resulting in an occurrence which could be murder at midnight, if they had hit your windshield with the gas pipe? Can you think of any reason why anybody would want to kill you or injure you or wreck your truck other than the fact that you happened to be driving Kohler products?

Mr. TAYLOR. No, sir.

Senator MUNDT. I guess that is all, Mr. Chairman.

The CHAIRMAN. Are there any other questions?

Mr. KENNEDY. There was one other incident, where you were able to identify some of the drivers of the truck?

Mr. TAYLOR. I wasn't able to identify the drivers of this car. There were four occupants in the car, of which I acquired the license number.

Mr. KENNEDY. When was this incident? Is this one of the three that you have mentioned?

Mr. TAYLOR. No, sir.

Mr. KENNEDY. This is a fourth incident?

Mr. TAYLOR. This is a fourth one.

Mr. KENNEDY. Would you tell the committee what happened, and where you were driving?

Mr. TAYLOR. This was roughly around the p. m. rush hour, and I was coming to Milwaukee and I was on the north side of Milwaukee.

Mr. KENNEDY. Coming from the Kohler Co.?

Mr. TAYLOR. No, sir, I was going to the Kohler Co. This car kept continually putting its brakes on in front of me trying to slow me down, or possibly trying to stop me with my tractor. It would pull off the shoulder of the road and then after I would pass, then this car with these four occupants in it would go and cut me off.

Now, when I got to Sidwell, Wis., I stopped and called the sheriff's department and gave them the license number of this car, and I described the car to them at that time.

I also reported the license number and this incident to the Kohler Co. Now, in turn, they investigated and found out that this license number was definitely registered under a Kohler striker's name.

Mr. KENNEDY. Whose name was that?

Mr. TAYLOR. I don't recall the name, sir, or the license number, but it is on record with the Kohler Co.

Senator MUNDT. But they did verify the fact that this car was driven by a striker or at least owned by a striker?

Mr. TAYLOR. The car was licensed; that is, a Kohler striker had the car, and it was his car.

Senator MUNDT. Which would certainly tie it up pretty closely with the strike incident?

Mr. TAYLOR. Yes, sir.

Senator MUNDT. Are you a member of any union, by the way?

Mr. TAYLOR. I am a member of the 710 AFL Teamster Union.

Senator MUNDT. You yourself are a union man, then?

Mr. TAYLOR. Yes, sir.

Senator MUNDT. So that they couldn't be attacking you because you were a scab. You have got as much right to work in your union, I presume, as a man has to work in a plumbers' union, or a bathtub makers' union, whatever it is called, the UAW?

Mr. TAYLOR. That is right, sir.

Senator MUNDT. I think we could add to the point that Mr. Curtis was developing yesterday then that not only does this type of boycott activity and this attempted violence injure third parties who happen to be businessmen big or small, or jobbers, but that this in turn seeks to do violence to a member of a different union who just happened to be going around trying to earn his living at his particular job.

It emphasizes the point that when a boycott or a strike activity gets beyond the area of the people involved, you do injury to a lot of innocent third people whose only offense is they happened to have to have to work for a living, which we all have to do in our respective ways.

Mr. TAYLOR. That is right.

The CHAIRMAN. Do you remember who you talked to in the Kohler Co. that gave you that information?

Mr. TAYLOR. No, I don't, sir, and I really couldn't say, and I didn't know the man.

Senator MUNDT. It is my information that the Kohler Co. has no record of this incident, but I wanted to know if you could remember whom you talked to.

Mr. TAYLOR. No, sir, I couldn't. I didn't know the man's name.

Senator MUNDT. Did you call the sheriff's office?

Mr. TAYLOR. No, the sheriff's office, no, sir, I don't remember who I talked to.

Mr. KENNEDY. Did you talk to the police?

Mr. TAYLOR. There were two county sheriffs' cars that came out to Stockville Restaurant where I was waiting for them.

Mr. KENNEDY. And you reported that to them?

Mr. TAYLOR. Pardon me?

Mr. KENNEDY. Did you report that incident to them?

Mr. TAYLOR. I gave them the license plate number, yes, sir.

The CHAIRMAN. Do you remember the name of the officers?

Mr. TAYLOR. No, sir, I don't.

Senator MUNDT. You gave the name of either a county—

Mr. TAYLOR. Stockville County.

Senator MUNDT. So it would be whoever was the sheriff of stockville County?

Mr. TAYLOR. I imagine so, sir.

The CHAIRMAN. We have inquired out there, and they can't find any record of it, and that is why I was trying to see if you could be helpful and give us any more information so that we might better identify it and get the actual record.

Mr. TAYLOR. Sir, all I know is I reported it on the telephone, and I talked to the sheriff's department, and these two squad cars came out, sir, and then they continued to escort me.

The CHAIRMAN. All right.

Is there anything further?

You may stand aside, and call the next witness.

Mr. KENNEDY. Arthur Butzen.

The CHAIRMAN. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BUTZEN. I do.

**TESTIMONY OF ARTHUR BUTZEN, ACCOMPANIED BY HIS COUNSEL,
THOMAS E. SHROYER**

The CHAIRMAN. State your name, and your place of residence, and your business or occupation.

Mr. BUTZEN. My name is Arthur Butzen, and I reside on Route 3, Sheboygan, Wis. I work for the J. L. Scheffler Truck Co., which is located at 1801 West Fulton Street, Chicago, Ill.

The CHAIRMAN. You have counsel present. Let the record show, Mr. Reporter, the same counsel who represented the preceding witness. All right, what is your business or occupation? You drive a truck?

Mr. BUTZEN. That is right, I drive a semi.

The CHAIRMAN. What is that?

Mr. BUTZEN. A semitrailer for the Scheffler Co.

The CHAIRMAN. You belong to any labor organization?

Mr. BUTZEN. Yes, sir; I belong to local 56, AFL, Sheboygan, Wis.

The CHAIRMAN. What is that?

Mr. BUTZEN. The teamsters local.

The CHAIRMAN. The teamsters local?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. Mr. Butzen, you drove a truck during the period that the strike was going on, to the Kohler Co.?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. You were making deliveries and pickups there, is that right?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. Did you receive permission from the teamsters business agent that you could go through the picket line?

Mr. BUTZEN. Well sir, I attended a meeting at Sheboygan.

Mr. KENNEDY. I don't want to get details. Just, you did receive permission?

Mr. BUTZEN. I did.

Mr. KENNEDY. Who was the business agent?

Mr. BUTZEN. Mr. Hillman.

Mr. KENNEDY. Mr. Hillman?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. He is the one who gave the permission?

Mr. BUTZEN. No, sir, his assistant, Mr. Ayler gave us permission.

Mr. KENNEDY. And you had a family at that time, which you needed to support and needed this work, isn't that correct?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. And so you continued doing work, part of which was to make these pickup and deliveries at the Kohler Co., isn't that right?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. To support your family during this period of time?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. Now, did you receive some threatening telephone calls after you started to make deliveries at the Kohler Co.?

Mr. BUTZEN. No, sir; I did not receive any telephone calls.

Mr. KENNEDY. Did you receive any personal damage to your home?

Mr. BUTZEN. Yes, sir; that I did.

Mr. KENNEDY. Could you tell the committee what happened to your home after you started making these pickups and deliveries?

Mr. BUTZEN. Well, the first time I had any damage was in January of 1955. At this time I had two rocks thrown through my picture window in the front of my home. This I reported to the sheriff's department. They sent two county sheriff's deputies out to investigate, and that is the last I heard of that incident.

The CHAIRMAN. Nobody was ever arrested that you know of?

Mr. BUTZEN. Not that I know of.

The CHAIRMAN. In October of 1955, was some more damage done to your home?

Mr. BUTZEN. Yes, and at that time it appeared to be a lead slug or probably a marble that hit this picture window and put one hole through it. That I also reported to the sheriff's department and they came out to investigate and that was the last I heard of that incident.

The CHAIRMAN. No arrests were made that you know of?

Mr. BUTZEN. No arrests were made that I know of.

The CHAIRMAN. What was the damage that was done in those two instances? You had a third instance, is that right?

Mr. BUTZEN. That is right.

The CHAIRMAN. Let us go through the third one first.

You had some blasts of a shotgun fired at your home?

Mr. BUTZEN. That is right. That was in December of 1955. As I remember, there were 3 shots from a shotgun, 1 of which went through the front door, that is the front entrance into my home, and 2 which went through this picture window also in the front, and my car was parked in the driveway and there were 2 blasts fired into my car.

This I reported to the sheriff's department. They came out the following morning or this same evening rather, two deputies came out, and I asked for Ted Mosch to personally come out and inspect this damage in the morning, and he never did come out. He sent, I believe, it was the undersheriff to investigate this.

They took the pellets out of the door from the bricks of my house and that was about the last that I heard of it.

Mr. KENNEDY. So you had the damage done to your home in January of 1955, and you had two rocks thrown through your window, and through the picture window, is that right?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. And then the picture window was again damaged in October of 1955 when a marble slug was thrown through it?

Mr. BUTZEN. I am not too sure on that date.

Mr. KENNEDY. Approximately.

Mr. BUTZEN. It could have been between August and October.

Mr. KENNEDY. And then in December of 1955, you had five blasts of a shotgun, which were fired into your home, and into your automobile?

Mr. BUTZEN. That is correct.

Mr. KENNEDY. Were you at home when these blasts of the shotgun occurred?

Mr. BUTZEN. Yes, sir; I was at home.

Mr. KENNEDY. Were you anyplace near or your family anyplace near where the gunshots hit?

Mr. BUTZEN. Well, I was in the rear of my home and my wife was in the living room which is the room this picture window is located in. She heard some noise outside, and so she looked through this front door, the front entrance, and as she looked through this window, apparently she did not think she had seen anyone so she turned away from the door and she probably took 1 or 2 steps at the most, and that was when the first blast came through the door.

Mr. KENNEDY. From her recital of the facts at that time, did it appear to you that the people who were shooting were actually shooting at her?

Mr. BUTZEN. Well, I wouldn't go so far as to say they were shooting at her, because this was a rather small window in the front door, or three small windows.

Mr. KENNEDY. But at the most, she was only 1 or 2 feet away from where the blast hit?

Mr. BUTZEN. I would say about 1 step, which would be approximately 3 feet.

Mr. KENNEDY. And it occurred immediately after she looked out the window, however, isn't that right?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. And it could very well have hit her if she had not stepped away?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. What was the total damage that was done through the rocks being thrown through your window, and the shotgun blast?

Mr. BUTZEN. Well, I would estimate the damage to be between \$800 and \$900.

Mr. KENNEDY. Did you have vandalism insurance at that time?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. That you had taken out earlier?

Mr. BUTZEN. Yes, sir; I had vandalism insurance.

Mr. KENNEDY. Did you ever have any problem or difficulty like this prior to the time of the Kohler strike?

Mr. BUTZEN. No, sir.

Mr. KENNEDY. Do you attribute what happened to you in these three instances to the strike itself, to difficulties that arose out of the strike and the fact that you were making these deliveries?

Mr. BUTZEN. Yes, sir; I do.

Mr. KENNEDY. You feel it is a direct result of that?

Mr. BUTZEN. Yes, sir.

Mr. KENNEDY. And the difficulty occurred or came from those, or the trouble came from those who were interested in your not making the pickups and deliveries at the Kohler Co.?

Mr. BUTZEN. That is correct, sir.

Mr. KENNEDY. You feel that those are the ones who are responsible, is that right?

Mr. BUTZEN. Yes, sir.

Senator MUNDT. May I ask a question? Who was the sheriff at this time who did nothing about any of these things, and did not even come out and examine your house after what could have resulted in the death of your wife which fortunately did not do her injury, but did result in injury of \$800 or \$900?

Mr. BUTZEN. This was Mr. Mosch.

Senator MUNDT. Mr. Mosch. Is that the same sheriff who testified before our committee?

Mr. KENNEDY. That is correct.

Mr. BUTZEN. Mr. Mosch did come out I believe on the first two times when my window was broken, but the third time, I don't recall him coming out to my home other than the undersheriff, and I believe it was the undersheriff, and I am not sure on that.

Senator MUNDT. Did you ever have any other experiences as a truck-driver, except these three attacks on on your house, such as were related by your predecessor on the stand, Mr. Taylor, incidents which occurred on the highway itself?

Mr. BUTZEN. Well, sir, I was shot at one evening.

Senator MUNDT. Say that again.

Mr. BUTZEN. I was shot at by a shotgun blast.

Senator MUNDT. While driving?

Mr. BUTZEN. While driving my truck to Chicago. This happened between Sheboygan Falls and Waldo, on Highway 28. I would say I was about 5 or 6 miles southwest of Sheboygan Falls when this shotgun blast was fired at me.

I did not know at the time that I was being shot at. As this car approached me he put this headlights on bright and as this car got alongside of my trailer, of course my tractor was already past this car, and that is when I heard this blast.

I thought a tire had blown out. So I pulled over to the side of the road to check if I had any blown out tires. I did not.

Well, I thought maybe that car backfired. So I continued on to Milwaukee and I stopped in a restaurant. Now, another truckdriver from the Scheffler Co. had pulled out probably 5 minutes in back of me.

When he caught up to me in Milwaukee, he stopped at this same restaurant and he asked me if I was shot at on Highway 28. Well, I started thinking, and, of course, I remember this blast, and he said he definitely was shot at because he had seen the blast or the flame come out the side of this car as it passed him.

(At this point, the following members were present: Senators McClellan, Ervin, Mundt, Curtis, and Goldwater.)

Senator MUNDT. Let me get this straight. Does he say that he saw the blast of the shotgun fired at you, or was he also shot at himself?

Mr. BUTZEN. He was shot at himself.

Senator MUNDT. Following you by about 5 minutes down the same highway?

Mr. BUTZEN. That is right.

Senator MUNDT. Go ahead.

Mr. BUTZEN. The following morning we had heard that a farm home had its window shot out that evening, and, according to this other truckdriver, he was at the same location as where this home was located that had the window broken. Of course, we figured this window was broken at the time he was shot at. This home is located on a curve in Highway 28. This other truckdriver states that he was rounding that curve at the time he was shot at.

Senator MUNDT. Did anybody in Sheboygan, a striker or a non-striker, a union member or a nonunion member, ever make any threats to you about shooting or anything which might help throw some light as to who was, what I would say, attempting murder out on a highway? If you are shooting at a man with a shotgun at a distance of 5 or 6 feet, it is pretty rough on the guy that gets hit.

Mr. BUTZEN. That is right, sir.

Senator MUNDT. Did anybody ever make any threats or any statements?

Mr. BUTZEN. No, sir. I couldn't say that anyone ever made a threat to take a shot at me. Of course, there was a lot of fellows that probably would have liked to have beaten me up, but I couldn't state any one particular man, because usually there was a crowd of from 8 to 12 strikers at the picket line when I crossed, went in and out of Kohler Co. If I had my—

Senator MUNDT. Did any of those people on the picket line ever make any threatening statements to you or derogatory statements or anything that would lead you to conclude that somebody might want to beat you up or do bodily injury to you?

Mr. BUTZEN. Well, I often heard "Butzen, we will get even with you" as I went through the picket line.

Senator MUNDT. Who would say that?

Mr. BUTZEN. That was the strikers.

Senator MUNDT. On the picket line?

Mr. BUTZEN. On the picket line.

Senator MUNDT. Did anybody ever say anything else besides "Butzen, we will get even with you"?

Mr. BUTZEN. Well, there was a lot of swearing at me. I believe the reason they probably said more to me than other drivers was because I was one of the first drivers from the Sheboygan area to cross this picket line.

Senator MUNDT. You think they kind of singled you out, then, as a special target because of that?

Mr. BUTZEN. Well, that is the way it appeared to me.

Senator MUNDT. Did you have any personal enemies around Sheboygan who might be trying to get even with you or bump you off for any other reason than that you were driving a truck which crossed the picket line and was carrying Kohler products?

Mr. BUTZEN. No, sir; I don't know anyone that I would call an enemy of mine, that is, before the Kohler strike.

Senator MUNDT. In other words, you haven't been feuding with anybody in the neighborhood and getting into a lot of trouble and brawls, and some unhappy neighbor might want to bump you off or someone else?

Mr. BUTZEN. No, sir.

Senator MUNDT. You can think of no other reason, you are sure, except the outgrowth of this strike that would have people attacking you; is that your testimony?

Mr. BUTZEN. Yes, sir.

Senator MUNDT. You are a member of a union?

Mr. BUTZEN. Yes, sir, I am a member of a union.

Senator MUNDT. And trying to earn a living for your family by working at your job just as the strikers were trying to earn a living for themselves, or for their jobs, or trying to protect their jobs, as they tell us, and having the strike out in front to try to keep people from replacing them. You were simply trying to earn your living; is that right?

Mr. BUTZEN. That is correct, sir.

Senator MUNDT. Do you think you have a right to earn your living that way?

Mr. BUTZEN. Well, sir, I do. I waited 4 months before I crossed this picket line. I traveled from Sheboygan, Manitowoc, Green Bay, Oshkosh, Fond du Lac, Milwaukee, looking for a job, and I couldn't find a job. I got part-time work as a welder, but this job didn't pay near enough to keep me going.

I had financial problems. I have a new home to pay for. I had gotten married 1 month after the strike started. I had furniture to pay for. My only way out, as far as I was concerned, was to go back to work for Scheffler, and by going back to work for Scheffler I had to cross the picket line because there was not enough freight coming out of Sheboygan for me not to cross the picket line.

In other words, there probably was two nights a week when I would have a load out of Sheboygan that I didn't go into Kohler Co. But the other three nights of the week, if I wanted to work, I would have to cross the picket line to pick up a load up, take it out of Kohler Co. to Chicago.

Senator MUNDT. In other words, quite apart of whatever was happening to Kohler or whatever was happening to the strikers, regardless of who was right in that controversy, you faced the choice of either having to cross a picket line or not being able to support your family; is that right?

Mr. BUTZEN. Yes, sir.

Senator MUNDT. Which, again, emphasizes the point that Senator Curtis was making yesterday from the standpoint of the expansion of a strike out beyond the area of the labor controversy, whereby a majority, if you will, or a minority, or the striking group, seeks to impose its will by denying freedom of choice and the right to work and the right to survive to other people of the community, and, in this case, to a fellow union member, who has as much pride, I suppose, as these people in theirs. That is all.

The CHAIRMAN. Senator Curtis?

Senator CURTIS. I have some questions if counsel was through.

The CHAIRMAN. Counsel was not through, but you folks can proceed. Go right ahead. You didn't ask a while ago but you went ahead. Now go ahead.

Senator CURTIS. I shall let the counsel finish.

The CHAIRMAN. He is finished. Proceed.

Senator CURTIS. I am sorry, Mr. Chairman. I didn't believe I interrupted before.

Mr. BUTZEN, this shooting that occurred in your home, what time of day or night was that?

Mr. BUTZEN. I would say it was approximately 11 o'clock at night.

Senator CURTIS. Your wife was in the front room, the front part of the house?

Mr. BUTZEN. That is correct, sir.

Senator CURTIS. And about how much time elapsed between these five shots that were fired?

Mr. BUTZEN. Well, sir, it appeared to me to be an automatic shotgun or a pump. That is, as fast as those shots could probably come out of that gun, that is as fast as they were fired.

Senator CURTIS. Were you in the same part of the house?

Mr. BUTZEN. No, sir. I was in the bathroom at the time.

Senator CURTIS. And how close did this shot that came through the door come to hitting her?

Mr. BUTZEN. Well, the window that she was looking out of was broken.

Senator CURTIS. I see. Well, now, the shots that were fired in the car, that was the same evening, and that is what made up the five shots?

Mr. BUTZEN. That is correct.

Senator CURTIS. Did you find any shotgun shells out there?

Mr. BUTZEN. No, sir. I didn't see any shotgun shells.

Senator CURTIS. Did you call the sheriff immediately, or was there a little time that elapsed?

Mr. BUTZEN. Yes, sir, I called the sheriff immediately after this shooting took place.

Senator CURTIS. Is your residence inside the city or—

Mr. BUTZEN. No, sir. My residence is about a mile and a half south of Sheboygan in the town of Wilson, on Highway 141.

Senator CURTIS. What time of day was this first incident, the one where they threw the rocks through the window?

Mr. BUTZEN. This also took place between 10:30 and 11 o'clock at night.

Senator CURTIS. Were you home at the time?

Mr. BUTZEN. I was home on the first incident, when the rocks were thrown through the window. The second time when this slug of marble was put through the window, I was not at home.

Senator CURTIS. How large were these rocks?

Mr. BUTZEN. I would say those two rocks were probably the size of my fist.

Senator CURTIS. Each one of them?

Mr. BUTZEN. Each one.

Senator CURTIS. Did you keep them?

Mr. BUTZEN. No, sir. The sheriff's department picked up both of them.

Senator CURTIS. And they came through the picture window?

Mr. BUTZEN. Yes, sir; that is, one rock broke the window. The other rock hit the frame of the window. But either one of those rocks did not come into my home. This is a thermopane window, and it broke the outer glass only. In other words, the inside glass of the thermopane was not damaged.

Senator CURTIS. This assault upon your home, the one where a marble or something round came through the window, was that likewise at night, too?

Mr. BUTZEN. That was also at night.

Senator CURTIS. And it left just a round hole in the window?

Mr. BUTZEN. Just a round hole.

Senator CURTIS. You never found the thing that went through the window?

Mr. BUTZEN. No, sir.

Senator CURTIS. Did this have a terrifying effect upon your wife?

Mr. BUTZEN. Well, sir, my wife didn't notice this until about a half hour later.

Senator CURTIS. No, I am talking about the general, all four accidents.

Mr. BUTZEN. Yes, sir, this had a great effect on my wife. She was very nervous. In fact, I thought she would have a nervous breakdown.

Senator CURTIS. I think you have made a——

Mr. BUTZEN. Pardon me, sir. Did you mean if my wife was nervous before the Kohler strike?

Senator CURTIS. No. I am asking if in addition to the property damage that was done there, if this shooting into the house and throwing rocks and breaking windows was terrifying to your wife.

Mr. BUTZEN. It certainly was.

Senator CURTIS. You have made an important witness in this hearing. You have certainly, by recitation, firsthand, of what you experienced, established the untruth of the contention that this boycott was carried on just by means of persuasion, and by advertising the controversy between union and management in Kohler. I think it is regrettable that your local police officers weren't able to give you any protection, with no prosecutions of these things. It may happen at a later time, maybe even after these hearings are long closed. But the truth will eventually come out on who directed these things, who financed them, who provided the guns, who provided the paint bombs and all these other things.

I certainly hope it will. That is all, Mr. Chairman.

The CHAIRMAN. Senator Goldwater.

Senator GOLDWATER. I have no questions, Mr. Chairman.

The CHAIRMAN. Senator Ervin?

Senator ERVIN. I have no question.

The CHAIRMAN. Mr. Counsel, do you have any more questions?

Mr. KENNEDY. No, thank you.

The CHAIRMAN. The Chair wishes to ask you one or two questions. Do you have any doubts that this vandalism and these attacks upon you grew out of anything else except this strike?

Mr. BUTZEN. No, sir, I think this strike was the fault of it.

The CHAIRMAN. The cause of all of it?

Mr. BUTZEN. The cause of everything that happened to my home.

The CHAIRMAN. Do you have any doubt that it was union members, strikers, or their sympathizers that committed these acts?

Mr. BUTZEN. Well, I think it was somebody, probably a striker or someone that was in favor of the strikers.

The CHAIRMAN. You don't think anyone that didn't want the strike was committing these acts, do you?

Mr. BUTZEN. I don't think so.

The CHAIRMAN. Do you have reason to think anyone outside of those who were on strike and their sympathizers would want to treat you that way?

Mr. BUTZEN. No, sir.

The CHAIRMAN. And all the threats you got were from those that were on the picket line, telling you they would get you?

Mr. BUTZEN. Yes, sir.

The CHAIRMAN. You got threats from them?

Mr. BUTZEN. I certainly did.

The CHAIRMAN. You got threats from no one else?

Mr. BUTZEN. That is right.

The CHAIRMAN. Do you know whether the officials of the union and of the international union knew that these pickets were making threats to you there on the picket line?

Mr. BUTZEN. No, sir; I do not know that.

The CHAIRMAN. You couldn't say that any official of the local union, of the local or of the international, were present and heard the threats?

Mr. BUTZEN. No, sir; I couldn't say that anyone—

The CHAIRMAN. How many times were you threatened when you crossed the picket line?

Mr. BUTZEN. Well, in the beginning of the strike, that is, when I started to cross the picket line—

The CHAIRMAN. That is 4 months after the strike began?

Mr. BUTZEN. That was 4 months after the strike began—I would say for the first 2 months that I crossed that picket line, it was just about every day.

The CHAIRMAN. Do you mean you crossed it about every day, or that every every time you did cross they threatened you?

Mr. BUTZEN. Every time I did cross.

The CHAIRMAN. How often did you cross during that first 2 months?

Mr. BUTZEN. Well, I would say I crossed probably four times a week; that is, going in the gate and out of the gate.

The CHAIRMAN. In other words, you made two trips in a week?

Mr. BUTZEN. That is right.

The CHAIRMAN. Going in and coming out you would cross the picket line?

Mr. BUTZEN. But there were times that I would go in more. Of course, I can't remember exactly how many times I went in.

The CHAIRMAN. How long after these threats were made was it before this vandalism occurred?

Mr. BUTZEN. I went into the Kohler Co. the middle of August, and the first time I had any damage done to my home was in January of 1955.

The CHAIRMAN. Had the threats on the picket line continued up until January 1955?

Mr. BUTZEN. They continued after January.

The CHAIRMAN. Well, they had, from the time you started they had continued up to January 1955?

Mr. BUTZEN. Yes, sir.

Mr. CHAIRMAN. And then continued on after; is that correct?

Mr. BUTZEN. Yes, sir.

The CHAIRMAN. Did you have any idea who was committing these acts against you?

Mr. BUTZEN. I wouldn't go so far as to name any one man.

The CHAIRMAN. Did you tell the sheriff whom you believed the two men were?

Mr. BUTZEN. Yes, I did.

The CHAIRMAN. You gave him their names?

Mr. BUTZEN. Yes. I gave him the names.

The CHAIRMAN. Do you know whether he ever questioned them?

Mr. BUTZEN. No, sir; I do not know.

The CHAIRMAN. Did he ever report back to you that he had investigated and found out that you were mistaken?

Mr. BUTZEN. No, sir; he didn't.

The CHAIRMAN. In other words, you gave him the names of those you thought you had the right to suspicion and believed committed the acts?

Mr. BUTZEN. Yes, sir.

The CHAIRMAN. And you got no further cooperation from him?

Mr. BUTZEN. That is correct, sir.

The CHAIRMAN. Are there any other questions?

Senator Ervin.

Senator ERVIN. When you crossed the picket line, was anything done to you besides being threatened? In other words, were you ever rocked or anything like that?

Mr. BUTZEN. Yes, sir; I had clearance lights knocked off the top of the cab on my tractor. This happened in the winter time, and I believe that it was a chunk of ice that was picked up and thrown at my tractor. These clearance lights are glass, that is, a glass reflector, and inside this reflector is a little bulb. These glass reflectors were knocked clear off of the tractor.

Senator ERVIN. How often did that occur?

Mr. BUTZEN. This happened to me one time.

Senator ERVIN. That is all.

Senator MUNDT. Mr. Chairman?

The CHAIRMAN. Senator Mundt.

Senator MUNDT. Prior to the strike situation at Kohler, had you had occurrences of this type against you as a truckdriver?

Mr. BUTZEN. No, sir.

Senator MUNDT. Nobody had ever shot at you, nobody had ever tried to break up your truck in the manner in which you described to Senator Ervin, or nobody had in any way threatened or intimidated you until this strike situation developed?

Mr. BUTZEN. No, sir. That is correct.

Senator MUNDT. Do you have any other reason to believe that this was the strikers, other than the fact that they seemed to be the people

who were against Kohler and Kohler products, and your truck was carrying Kohler products?

As you went out with your wife socially or to eat or to dance or anything, were you ever accosted by pickets or ever abused by them verbally?

Mr. BUTZEN. Well, a few times that my wife and I were out, I was called a scab. Of course, I don't call myself a scab. If I was called a strikebreaker, I would say that would be the correct name for me.

Senator MUNDT. A scab, in your definition, would be a fellow who had gone back to work in the Kohler plant after he had gone out on strike?

Mr. BUTZEN. That is what I would call a scab.

Senator MUNDT. You were a fellow union member trying to earn your living and running in conflict with another union that was on strike against the company?

Mr. BUTZEN. Yes, sir.

Senator MUNDT. You would be, you say, a strikebreaker.

Mr. BUTZEN. If they call it that.

Senator MUNDT. Did either of these two men, and there is no need to identify them by name, because you don't know whether they shot at you or not, and you don't want to accuse anybody of shooting without having pretty good evidence—you gave the two names to the sheriff and he never reported back to you—you must have had some reason, and I want you to give us the reason without mentioning the people's names. We will have some more witnesses in here to talk about the names, probably. What reason did you have for picking out, let's say, John and Joe and telling the sheriff "I think these are the fellows responsible?"

Mr. BUTZEN. Because those were the fellows that told me, "Butzen, we are going to get even with you."

That led me to believe that they could have had something to do with the damage that was done to my home.

Senator MUNDT. In other words, these are the men that you could remember who personally had threatened you?

Mr. BUTZEN. Yes, sir.

Senator MUNDT. That would seem to be a pretty good, logical reason, for at least giving the names to the sheriff. You had no evidence, no information, as to whether the sheriff ever did anything about it or not?

Mr. BUTZEN. Not to my knowledge. If they were questioned, I don't know about it.

Senator MUNDT. No report was made to you?

Mr. BUTZEN. No, sir.

Senator MUNDT. This was the same Sheriff Mosch that we have been talking about?

Mr. BUTZEN. Yes, sir.

Senator MUNDT. All right.

The CHAIRMAN. All right.

Thank you very much. Call the next witness.

Mr. KENNEDY. John Schinabeck.

The CHAIRMAN. Come forward, please.

You do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. SCHINABECK. I do.

TESTIMONY OF JOSEPH SCHINABECK, ACCOMPANIED BY COUNSEL,
THOMAS E. SHROYER

The CHAIRMAN. State your name, your place of residence and business or occupation.

Mr. SCHINABECK. Joseph Schinabeck of 2609 Main, Sheboygan, Wis.; I work for the Scheffler Transport Co.

The CHAIRMAN. How long have you worked there?

Mr. SCHINABECK. I believe 13 years.

The CHAIRMAN. Counsel, do you appear for this witness also?

Mr. SHROYER. Yes, I do, Mr. Chairman.

The CHAIRMAN. All right, Mr. Kennedy, proceed.

Mr. KENNEDY. You are in a union?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. What local?

Mr. SCHINABECK. Local 56 of the teamsters.

Mr. KENNEDY. Of the teamsters?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. And you received the same kind of notification as the previous witness about driving during the strike?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. You drove in and made pick-ups and deliveries at the Kohler Co. from 1954 on?

Mr. SCHINABECK. I did.

Mr. KENNEDY. And did you ever have any threatening telephone calls when you were doing this work?

Mr. SCHINABECK. Not that I can remember.

Mr. KENNEDY. You never had any threatening telephone calls. Did you receive any telephone calls at home?

Mr. SCHINABECK. Not that I know of.

Mr. KENNEDY. Did you have any damage done to your home?

Mr. SCHINABECK. I did.

Mr. KENNEDY. That is, while driving for the Kohler Co.?

Mr. SCHINABECK. I did.

Mr. KENNEDY. What happened, and approximately when?

Mr. SCHINABECK. Well, I believe this was in 1956, March—I don't remember for sure—but my house was paint-bombed, I believe with four jars of paint.

Mr. KENNEDY. Were they thrown through your window?

Mr. SCHINABECK. They were thrown at the front door and through the picture window of the house.

Mr. KENNEDY. What kind of paint was it?

Mr. SCHINABECK. That I do not know.

Mr. KENNEDY. Was it white paint or black paint or what?

Mr. SCHINABECK. Black paint.

Mr. KENNEDY. Thrown into your living room?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. How many jars in your living room?

Mr. SCHINABECK. I believe there was three.

Mr. KENNEDY. And did you have a fourth jar?

Mr. SCHINABECK. At the front door.

Mr. KENNEDY. Through the front door?

Mr. SCHINABECK. At the front door.

Mr. KENNEDY. And it covered your whole front door with paint?

Mr. SCHINABECK. It bounced off as it hit.

Mr. KENNEDY. Did it break?

Mr. SCHINABECK. It broke as it hit.

Mr. KENNEDY. The other three jars were thrown through the window?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. Then did they splatter paint all over your living room?

Mr. SCHINABECK. All over the furniture.

Mr. KENNEDY. All over the furniture, the walls, the rugs?

Mr. SCHINABECK. Yes.

Mr. KENNEDY. What was the damage?

Mr. SCHINABECK. Somewhere around \$1,000.

Mr. KENNEDY. Did you have insurance at that time?

Mr. SCHINABECK. I did not.

Mr. KENNEDY. Did the Kohler Co. assist you?

Mr. SCHINABECK. The Kohler Co. paid it.

Mr. KENNEDY. Did you have any trouble or problems like this before?

Mr. SCHINABECK. No, sir.

Mr. KENNEDY. Do you feel that what happened to you is directly related to the strike?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. And do you feel that it is directly related to the fact that you were driving a truck and making pickups and deliveries at the Kohler Co.?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. And that those responsible were those who were attempting to prevent you from making these pickups and deliveries at the Kohler Co.?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. Do you feel that those are the ones that were responsible?

Mr. SCHINABECK. Yes. I believe the house was there 5 years and nobody ever touched it.

Mr. KENNEDY. You never had any trouble, except at this time?

Mr. SCHINABECK. At this time was only.

Mr. KENNEDY. And when you were driving through the picket line did the pickets and strikers make any statements to you?

Mr. SCHINABECK. Well, just swearing. That is about all.

Mr. KENNEDY. They would swear at you?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. And did they threaten you at all?

Mr. SCHINABECK. Not that I can remember.

Mr. KENNEDY. What?

Mr. SCHINABECK. Not that I can remember.

Mr. KENNEDY. They didn't tell you that they would get you some day?

Mr. SCHINABECK. No, sir.

Mr. KENNEDY. But, nevertheless, you feel, because of the fact that you had no problems or difficulty such as this before, that this paint bombing of your home arose out of the strike, isn't that correct, it arose out of the strike?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. And that those responsible were those who were trying to keep you from making these pickups and deliveries?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. Those that were on strike?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. You continued to drive and make these pick ups and deliveries even after they paint bombed your home?

Mr. SCHINABECK. I did.

Mr. KENNEDY. It didn't stop you?

Mr. SCHINABECK. No, sir.

Mr. KENNEDY. It didn't frighten you. You continued to do your work?

Mr. SCHINABECK. Yes, sir.

Mr. KENNEDY. Is there any other incident that occurred to you?

Mr. SCHINABECK. No, sir.

Mr. KENNEDY. You weren't followed in your truck?

Mr. SCHINABECK. Not that I know of.

The CHAIRMAN. When you crossed the picket line, how long was it after you first crossed the picket line and heard this cursing and so forth before the first incident occurred?

Mr. SCHINABECK. I believe it was somewhere maybe around 2 months after I crossed the picket line that my house was paint bombed.

The CHAIRMAN. I hand you some pictures here, some photographs, a series of five. Will you examine them and state whether you identify them, please?

(Photographs were handed to the witness.)

Mr. SCHINABECK. They are of my home.

The CHAIRMAN. They are pictures of your home and the damage that was done to it?

Mr. SCHINABECK. Yes, sir.

The CHAIRMAN. That is, by reason of the paint bombing?

Mr. SCHINABECK. Yes, sir.

The CHAIRMAN. They may be made exhibits 108, A, B, C, D, and E for reference only.

(The documents referred to were marked "Exhibit Nos. 108 A, B, C, D, and E," for reference and may be found in the files of the select committee.)

The CHAIRMAN. Senator Curtis?

Senator CURTIS. On how many different occasions did they throw paint on your home?

Mr. SCHINABECK. Just once.

Senator CURTIS. Did they come through a window?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. Did they break the window with the paint container, or how did it happen? Do you know?

Mr. SCHINABECK. The paint was in a jar.

Senator CURTIS. Yes?

Mr. SCHINABECK. In a glass jar.

Senator CURTIS. Did the glass jar break the window or did they break the window with a rock or something at that time?

Mr. SCHINABECK. The glass jars broke the window. They went right through.

Senator CURTIS. How many jars of paint did they throw?

Mr. SCHINABECK. I believe there was four.

Senator CURTIS. Four?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. Who was home at the time?

Mr. SCHINABECK. My wife and children.

Senator CURTIS. How many children?

Mr. SCHINABECK. Two.

Senator CURTIS. What were there ages?

Mr. SCHINABECK. 6 and 1, I believe, at the time.

Senator CURTIS. And had the children gone to bed?

Mr. SCHINABECK. They were all in bed.

Senator CURTIS. Did it awaken them, disturb them that night?

Mr. SCHINABECK. It sure did.

Senator CURTIS. You were there?

Mr. SCHINABECK. I was not.

Senator CURTIS. But your wife told you about it?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. And the next day, or later, were you able to find the pieces of the jars so that you could figure out there was four of them?

Mr. SCHINABECK. Well, there were four covers. I think the police department took them all.

Senator CURTIS. Four tops to the jars?

Mr. SCHINABECK. Four tops.

Senator CURTIS. Were they all thrown in through the same window?

Mr. SCHINABECK. Three of them were. One was thrown at the front door.

Senator CURTIS. One was thrown at the front door. Was the door open?

Mr. SCHINABECK. No, sir. It was not.

Senator CURTIS. Was there glass in the door? How did it come through the front?

Mr. SCHINABECK. A combination screen door.

Senator CURTIS. I see. Had your wife retired when this happened?

Mr. SCHINABECK. She had just gone to bed.

Senator CURTIS. But she heard it at the time?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. Did any police officers ever do anything about it?

Mr. SCHINABECK. Well, they came and looked at it.

Senator CURTIS. I beg your pardon?

Mr. SCHINABECK. They looked at it.

Senator CURTIS. Did you ever see them again?

Mr. SCHINABECK. No, sir.

Senator CURTIS. Was this the police officers or the sheriff's office?

Mr. SCHINABECK. The Sheboygan Police Department.

Senator CURTIS. I notice here one of the pictures that looks like the paint hit a davenport and above it.

How badly was that damaged?

Mr. SCHINABECK. That was ruined.

Senator CURTIS. That was ruined?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. It looks like a lot of paint around there. Did more than one jar hit there in that area, do you know?

Mr. SCHINABECK. I don't really know. It could have been 1 or it could have been 2.

Senator CURTIS. They were all pretty much in the same general area where they hit?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. Well, now, did this happen before or after your experience of being swore at, harrassed verbally when you would carry on your work?

Mr. SCHINABECK. After I went in a while then I got it.

Senator CURTIS. I beg your pardon?

Mr. SCHINABECK. After I crossed the picket line for a while, then I got it.

Senator CURTIS. I see. You are satisfied that the purpose of this was to prevent you from hauling these Kohler products?

Mr. SCHINABECK. I had to live.

Senator CURTIS. I beg your pardon?

Mr. SCHINABECK. I had to live.

Senator CURTIS. I understand that. I am not disputing that. Why do you think this was done to you and your home?

Mr. SCHINABECK. Because I crossed the picket line.

Senator CURTIS. Because you crossed the picket line?

Mr. SCHINABECK. Yes.

Senator CURTIS. Which meant that you were transporting Kohler products, is that right?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. And they didn't want you to do that?

Mr. SCHINABECK. No, sir.

Senator CURTIS. And they proceeded in this manner rather than to persuade you with argument, is that right?

Mr. SCHINABECK. Yes, sir.

Senator CURTIS. Was this a terrifying experience for your wife and children?

Mr. SCHINABECK. It sure was.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Senator Mundt.

Senator MUNDT. Did you have any insurance on your home?

Mr. SCHINABECK. I do.

Senator MUNDT. Did you check with the insurance company to see whether they would cover an incident like that?

Mr. SCHINABECK. I did.

Senator MUNDT. And you found out that your policy did not cover that?

Mr. SCHINABECK. That is right.

Senator MUNDT. So if the Kohler Co. had not paid it, you would have had to pay it yourself?

Mr. SCHINABECK. Yes, sir.

Senator MUNDT. Would \$1,000 to a man in your circumstances have been a pretty serious setback if you had been stuck with it yourself?

Mr. SCHINABECK. I didn't have it.

Senator MUNDT. It would have taken you quite a while, I suppose, to save on any wages as a truckdriver, \$1,000, to replace your furniture?

Mr. SCHINABECK. Yes, sir.

Senator MUNDT. So except for the fact that the Kohler Co. did pick up the check for the damages, you would have been pretty seriously hurt, as a workingman in Sheboygan, as a member of a union, because some other union decided to heave some paint bombs at you?

Mr. SCHINABECK. Yes, sir.

Senator MUNDT. Thank you.

The CHAIRMAN. Are there any other questions? You have no doubts that this damage, this vandalism, toward your property was the outgrowth of this strike, do you?

Mr. SCHINABECK. I believe that was the cause of it.

The CHAIRMAN. You wouldn't have any reason to think that anyone who sympathized with the Kohler Co. would want to throw paint bombs at you, would you?

(The witness conferred with his counsel.)

Mr. SCHINABECK. I really don't know.

The CHAIRMAN. I mean, is there anybody at the Kohler Co. mad at you who would want to damage your property?

Mr. SCHINABECK. Well, I guess not.

The CHAIRMAN. Have your relations with them always been pleasant?

Mr. SCHINABECK. Pardon, sir?

The CHAIRMAN. Have your relations with the Kohler Co. always been pleasant?

Mr. SCHINABECK. Yes, sir.

The CHAIRMAN. The only unpleasant matter that came up was regarding the strike and your crossing the picket line?

Mr. SCHINABECK. Yes, sir.

The CHAIRMAN. Do you have any definite information as to whether the union itself countenanced this character of conduct?

Mr. SCHINABECK. I don't know sir.

The CHAIRMAN. Do you know if they did anything to prevent it?

(The witness conferred with his counsel.)

Mr. SCHINABECK. I guess I don't know.

The CHAIRMAN. You don't know whether they did or didn't?

Mr. SCHINABECK. I didn't get the question.

The CHAIRMAN. Do you know whether the union did anything to try to stop, to try to prevent this vandalism from occurring?

Mr. SCHINABECK. I do not know.

The CHAIRMAN. Did you ever hear of them doing anything to stop it?

Mr. SCHINABECK. I do not know.

The CHAIRMAN. You just don't know either way?

Mr. SCHINABECK. No, sir.

The CHAIRMAN. Thank you. You are excused.

Senator MUNDT. You were not an employee of the Kohler Co. You were an employee of the trucking company, were you not?

Mr. SCHINABECK. Yes, sir.

Senator MUNDT. So that your connections with the Kohler Co., I suppose, are primarily through whoever owned the trucking company. You worked for the trucking company?

Mr. SCHINABECK. I work for a trucking company.

Senator GOLDWATER. Mr. Chairman?

The CHAIRMAN. Senator Goldwater.

Senator GOLDWATER. I want to ask the witness just a question about union policy.

You are a member of the teamsters, are you?

Mr. SCHINABECK. Yes, sir.

Senator GOLDWATER. You are not supposed to cross a picket line. Am I correct in that?

Mr. SCHINABECK. I believe not.

Senator GOLDWATER. Have they ever told you anything in the local about crossing an illegal picket line?

Mr. SCHINABECK. We was on our own.

Senator GOLDWATER. You were on your own?

Mr. SCHINABECK. Yes, sir.

Senator GOLDWATER. Did you feel that inasmuch as this was an illegal picket line, that you had a right, as a union member, to cross it?

Mr. SCHINABECK. Well, I do not belong to that union. If I felt like it, I could have crossed it.

Senator GOLDWATER. Thank you.

The CHAIRMAN. Thank you very much.

Call the next witness.

(Members of the committee present at this point in the hearing were: Senators McClellan, Ervin, Goldwater, Mundt, and Curtis.)

Mr. KENNEDY. We will call Mr. Johnsen.

The CHAIRMAN. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JOHNSEN. I do.

TESTIMONY OF ROY JOHNSEN, ACCOMPANIED BY HIS COUNSEL, JOSEPH L. RAUH, JR.

The CHAIRMAN. State your name, and your place of residence, and your business or occupation?

Mr. JOHNSEN. My name is Roy Johnsen, I live at 3944 Holden Road, Sheboygan, Wis., and I am presently employed by the Larsen engine division of the Tecumseh Products in Holstein, Wis., and I am a grinder, a precision grinder.

The CHAIRMAN. A precision grinder?

Mr. JOHNSEN. Yes, sir.

The CHAIRMAN. You appear for him, Mr. Rauh?

Mr. RAUH. Yes, sir.

The CHAIRMAN. Let the record so show.

All right, Mr. Kennedy, proceed.

Mr. KENNEDY. Mr. Johnsen, you were working at the Kohler Co.?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. How long did you work for the Kohler Co.?

Mr. JOHNSEN. Approximately 5 years.

Mr. KENNEDY. From what period of time?

Mr. JOHNSEN. I would say 5 years before the strike.

Mr. KENNEDY. And you went out on strike?

Mr. JOHNSEN. It could be a little less, sir.

Mr. KENNEDY. Approximately 5 years, and you went out on strike?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. In support of the UAW?

Mr. JOHNSEN. Yes, sir, I did.

Mr. KENNEDY. There were trucks that were making pickups and deliveries at the Kohler Co.?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. And the union decided to try to do something about that to prevent it?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. And they formed a follow-the-truck committee?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. And you were a member of the follow-the-truck committee?

Mr. JOHNSEN. Yes, sir, I was.

Mr. KENNEDY. Were you a leader of "follow-the-truck" committee?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. Just a member of it?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. How many members did you have?

Mr. JOHNSEN. I would say approximately a dozen to 15 or 16.

Mr. KENNEDY. Who was head of the follow-the-truck committee?

Mr. JOHNSEN. Well, as far as I know, sir, I got all of my information and my money from Curtis Nack.

Mr. KENNEDY. What was his position in the union?

Mr. JOHNSEN. What was his position?

Mr. KENNEDY. Yes, what was Curtis Nack?

Mr. JOHNSEN. He worked with the executive board.

Mr. KENNEDY. He was a member of the executive board?

Mr. JOHNSEN. I don't know, sir, if he was or not, but he worked with them.

Mr. KENNEDY. He was one of the leaders of the union?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. And he is the one that organized this committee?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. Who organized the follow-the-truck committee?

Mr. JOHNSEN. I think Leo Brierather testified that he was a part of it.

Mr. KENNEDY. But you received your instructions from Nack?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. How long was this follow-the-truck committee in operation?

Mr. JOHNSEN. I would say approximately 2 months, sir.

Mr. KENNEDY. What period was it, during when?

Mr. JOHNSEN. Well, about the fifth or sixth month or so, something like that.

Mr. KENNEDY. In the summer?

Mr. JOHNSEN. In June.

Mr. KENNEDY. And July of 1954?

Mr. JOHNSEN. Yes, sir, that is right.

Mr. KENNEDY. May, June, and July?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. Shortly after the mass picketing ended?

Mr. JOHNSEN. That is right, sir.

Mr. KENNEDY. And for approximately 2 months?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. And did you have cars assigned to you?

Mr. JOHNSEN. We used our own cars, sir.

Mr. KENNEDY. And how many of you would go in each car?

Mr. JOHNSEN. Approximately 3 or 4, and sometimes I think there were 5.

Mr. KENNEDY. Would you try to follow every truck that was coming out of Kohler Co.?

Mr. JOHNSEN. Not every truck, sir.

Mr. KENNEDY. Well, you would follow a number of them, as many as you could, with the limit that you had in people?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. And you would follow them wherever they went?

Mr. JOHNSEN. In certain cases, yes.

Mr. KENNEDY. Did you know where they were going prior to the time you started your trip?

Mr. JOHNSEN. No, we didn't.

Mr. KENNEDY. You didn't know where you were going to end up?

Mr. JOHNSEN. No.

Mr. KENNEDY. What was the purpose of the "follow-the-truck" committee?

Mr. JOHNSEN. To find out where the merchandise went and talk to the people in the community to relate the Kohler story.

Mr. KENNEDY. You would know that some merchandise was going to Chicago, and if you wanted to talk to the people in Chicago, you didn't have to follow the truck down there?

Mr. JOHNSEN. That is right. I realize that, sir, but if it was a Chicago truck, it would have to be a Scheffler and I don't believe Kohler Co. trucks left the State.

Mr. KENNEDY. So why would you go down, or why would you follow the truck, and I ask you the question again, what would be the reason to follow the truck?

Mr. JOHNSEN. To find out where the merchandise was going.

Mr. KENNEDY. Yes, and then you found out it is going to some place in Chicago, and what would you do once you got there?

Mr. JOHNSEN. Well, we would relate our story, and check in with the union down there, and relate our story and talk to the people around.

Mr. KENNEDY. What do you mean talk to the people around there? What does that mean?

Mr. JOHNSEN. Well, we wanted to get the people interested.

Mr. KENNEDY. Who are the people?

Mr. JOHNSEN. The people, the public interested in the support of our Kohler workers.

Mr. KENNEDY. Just everybody you mean, or anybody specifically, or just everybody?

Mr. JOHNSEN. Not everybody, sir, whoever would stop and talk to us.

Mr. KENNEDY. You didn't have to follow the truck to know that you should go down to Chicago and talk to the people in Chicago. You didn't have to follow the truck down there.

Mr. JOHNSEN. I didn't know it was going to Chicago.

Mr. KENNEDY. But you knew some trucks were going to Chicago, did you not?

Mr. JOHNSEN. That is right, and we believe it.

Mr. KENNEDY. You didn't have to follow the truck down there to find that out, and if you wanted to talk generally to people in Chicago, you could just go to Chicago and talk to them.

Mr. JOHNSEN. We didn't know, sir, if this merchandise was going to a warehouse, or to a construction project, or what.

Mr. KENNEDY. Isn't it true that you went down there, and you followed the truck in order to talk to the people in the project or in the warehouse or wherever it might be, the specific people handling Kohler products?

Mr. JOHNSEN. Well, sir, when the truck left we did not know where it was going.

Mr. KENNEDY. I know that, but the reason you followed it was to talk to the people to whom the deliveries were being made, isn't that right?

You weren't going down to Chicago to talk to everybody in Chicago. You were talking to the people in the warehouse or the business project.

Mr. JOHNSEN. That is right.

Mr. KENNEDY. And trying to influence them not to buy Kohler products?

Mr. JOHNSEN. To tell them our side of the story, yes, sir.

Mr. KENNEDY. Would that entail setting up a picket line so that people would not come in and patronize that place of business?

Mr. JOHNSEN. We did picket the places, sir.

Mr. KENNEDY. So here is a third party who is handling Kohler products, and you would set a picket line up in front of a relatively innocent third party and start picketing their establishment merely because they were buying Kohler products?

Mr. JOHNSEN. May I stress this, sir: We only picketed it at the time the Kohler Co. truck was there.

Mr. KENNEDY. Did you ever picket anybody else, any other trucks?

Mr. JOHNSEN. No, sir. Well, the Scheffler truck we did.

Mr. KENNEDY. Did you picket where they made deliveries, and did you picket those places?

Mr. JOHNSEN. We followed the Scheffler truck from Sheboygan, from the Kohler plant to the Scheffler terminal in Chicago, and the truck itself had pulled inside the terminal.

Mr. KENNEDY. Did you picket the terminal?

Mr. JOHNSEN. No, sir, because it pulled inside, and we took the signs out of the car.

Mr. KENNEDY. Did you picket them at all?

Mr. JOHNSEN. I don't think we did, sir. We had the signs with us but I think we held them down.

Mr. KENNEDY. Why didn't you picket them?

Mr. JOHNSEN. I believe we had instructions not to picket if the truck was in there, if the truck was pulled inside, and we had no clear vision of the truck, sir.

Mr. KENNEDY. What did the clear vision entail?

Mr. JOHNSEN. Well, if they are unloading in a warehouse where we could picket and where there was public property, access to the sidewalks or something like that.

Mr. KENNEDY. Now, you were actually picketing a third party, were you not, who might be handling as one of their products, or one of their products might be handling Kohler?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. And you received those instructions to do that from the officials of the union in Sheboygan?

Mr. JOHNSEN. I received all of my instructions and money, and expense money, and everything from Curtis Nack at the strike kitchen.

Mr. KENNEDY. Did it ever occur to you that this might be causing harm and difficulty for a third party that had nothing to do with the strike?

Mr. JOHNSEN. In a way, sir.

Mr. KENNEDY. But you went ahead and did it anyway?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. How much money did you receive?

Mr. JOHNSEN. That all depends upon where we would go, sir; probably \$20 and sometimes more.

Mr. KENNEDY. Were you receiving strike benefits at the time?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. Which was how much?

Mr. JOHNSEN. I think, well we got a food voucher, and I think we got our check, \$25 a week, or whatever it was later on.

Mr. KENNEDY. About \$25 a week, plus food vouchers?

Mr. JOHNSEN. I think so.

Mr. KENNEDY. And you would receive your expenses when you made these trips?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. And you never would know where you were going to end up?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. Why did you join the "follow the truck" committee?

Mr. JOHNSEN. I volunteered for it, sir.

Mr. KENNEDY. For what reason?

Mr. JOHNSEN. Because I could get in my picket duty that way.

Mr. KENNEDY. You could what?

Mr. JOHNSEN. I would get credit for picket duty that way.

Mr. KENNEDY. You would get paid more if you are a picket?

Mr. JOHNSEN. No, sir; we got credit for the duty. Rather than walk the line in front of the plant, or be one of the men at the gates at the plant, we got credit for hours as picket duty by following these trucks.

Mr. KENNEDY. What does it entail when you get credit for it?

Mr. JOHNSEN. Well, we had to put in so many hours a week to get our pay.

Mr. KENNEDY. To get the strike benefits?

Mr. JOHNSEN. That is right, sir.

Mr. KENNEDY. And this was part of your responsibilities and duties?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. Now, you say this lasted approximately 2 months, and how many places did you actually picket during that 2-month period?

Mr. JOHNSEN. Well, sir, I made one run to Chicago. I made one run down to Fort Dodge, Iowa.

Mr. KENNEDY. Did you picket every time you made these runs?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. How many places did you actually picket?

Mr. JOHNSEN. I would say we picketed about three places in Milwaukee.

Mr. KENNEDY. All in Milwaukee?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. Did you picket any place in Chicago?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. We had some testimony before the committee that sometimes a car would come up and harass the driver, the truckdriver, by either going in front of him or cutting him off, or stopping quickly.

Did you do anything like that?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. None of those tactics were followed by you or the driver of your car?

Mr. JOHNSEN. Not once, sir.

Mr. KENNEDY. Where would you go, or where would you go as far as the truck was concerned? Did you ever go in front of the truck?

Mr. JOHNSEN. The only time we passed a truck, sir, was to fill up with gasoline, because the truck would carry a bigger supply of gasoline than a car could.

Mr. KENNEDY. You did not harass the driver?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. Did you ever carry guns?

Mr. JOHNSEN. Never.

Mr. KENNEDY. Did you ever shoot at the driver?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. You never did anything like that?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. You are sure you never carried guns, and were there any guns carried in the car?

Mr. JOHNSEN. Never.

Mr. KENNEDY. Did you ever know of any guns carried by any of the "follow the truck" committee?"

Mr. JOHNSEN. Well, out of this group about 16, sir, I traveled probably with about 8 of them, and never have I ever heard mentioned any weapons or any clubs of any kind or any guns.

They were never carried by us pickets. We carried the signs for a simple reason. We used to wait for these trucks out at the picket gates, and we used to get in the line with the boys on the line, and picket until we left, and the truck pulled out and then we followed, and we threw the signs in the car.

Mr. KENNEDY. Did you ever harass the driver of a car?

Mr. JOHNSEN. Not that I recall, sir.

Mr. KENNEDY. You would remember if you did that?

Mr. JOHNSEN. I probably called him a "scab" or something like that.

Mr. KENNEDY. Did you ever try to force him off the road or anything like that?

Mr. JOHNSEN. No, sir.

Mr. KENNEDY. Never once while you were a member of this committee?

Mr. JOHNSEN. No, sir. It would be pretty foolish to try and force a "semi" off the road with a car.

Mr. KENNEDY. Now, did you make reports when you returned from your trip?

Mr. JOHNSEN. I kept reports, sir, on our expenditure, and the amount of money received, and what we spent in gas, and everything else.

Mr. KENNEDY. And what your experiences were?

Mr. JOHNSEN. Yes; and I think that I did on certain occasions. I kept reports from county to county where we were stopped, and if we were stopped, and where we were followed, if we were followed by a squad car or something like that, and I did write down notes, sir.

Mr. KENNEDY. When there were police who would talk to you?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. Or whatever exchange you had with the driver?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. You made notes of those?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. You submitted them to the union?

Mr. JOHNSEN. Yes, sir.

Mr. KENNEDY. But part of your instructions from the union, as I understand it, was to picket establishments that were handling the Kohler products?

Mr. JOHNSEN. Well, sir, I don't believe anybody ever told me in the union to picket, but as I say, we had these signs along.

Mr. KENNEDY. That was understood that you were to do that?

Mr. JOHNSEN. Yes, sir, and that has been testified previously.

Mr. KENNEDY. I understand, it was testified that it was done?

Mr. JOHNSEN. That is right.

Mr. KENNEDY. And you participated in it?

Mr. JOHNSEN. I did, sir.

The CHAIRMAN. Did you make your reports typewritten?

Mr. JOHNSEN. No, sir; I did not.

The CHAIRMAN. Did you make them out in pencil?

Mr. JOHNSEN. Longhand; yes, sir.

The CHAIRMAN. I present one to you here, a photostatic copy of one that is typewritten, and I will ask you if that is a typewritten copy of the report you submitted.

(A document was handed to the witness.)

Mr. JOHNSEN. Part of this, sir, is my report, sir.

The CHAIRMAN. A part of it is your report?

Mr. JOHNSEN. Yes, sir.

The CHAIRMAN. What part of it is not?

Mr. JOHNSEN. I haven't read it all, sir, but I don't think—I know a part of it is my report.

The CHAIRMAN. Let me have the report now, and you say it is part of it?

Mr. JOHNSEN. May I mention one thing else. As you will find this report is very much in detail, and I have license numbers of every car to show that we did not harass or bother the truckdriver in any way, and otherwise we would have been picked up.

The CHAIRMAN. Is that your report or not?

Mr. JOHNSEN. I did not read it all, and shall I read it all?

The CHAIRMAN. Yes, you may take time to satisfy yourself whether it is or it is not.

(The witness read the report.)

Mr. JOHNSEN. Sir, I have read it all, and this is my report.

The CHAIRMAN. It is your report?

Mr. JOHNSEN. Yes, sir.

The CHAIRMAN. At the request of Senator Curtis, the report will be printed in full in the record at this point.

(The report is as follows:)

Trip No. 1 to Iowa: Left Kohler Co. 9:30 a. m. headed for Plymouth; just before Plymouth "Decker" transportation truck stopped and talked to the Plymouth Police force. Continued on and stopped at the Plymouth Police station. We parked our car across from there. (Driver was scared stiff.)

(1) Officer from desk came across street and told us he wanted to talk to us. Entered police station, questioned, all names taken, tape recorder going at the same time. Explained our duties, showed our literature. Driver released before us, later we were released and warned.

Continued our chase toward Fond du Lac, Wis. In Fond du Lac, Decker truck stopped on main drag, later at police station. Explained to a detective that he was (names taken) being followed and didn't want his head smashed in. We were again questioned by the (2) Fond du Lac Detective Treelevel and later told off by Sheriff George LaMuel—warned of the previous blasting and told we'd end up in the jail.

Driver entered building to call his company—released with no charges, continued our trip with Detective Treelevel following us out of Fond du Lac (County squad car, license No. A-44-269). Continued on Highway 151—squad license No. A-44-269 passed us and later followed the truck, staying a safe distance behind and watching our speed limits.

(Driver stated he was a union man.) (3) State police picked us up from behind with Detective Treelevel still following in front. Treelevel turned back just before we entered Lamartine.

(4) Dodge County squad car met State patrol at filling station just before we entered Waupun, Wis. Left filling station, State cop ahead and county cop behind us. Still Highway 151. Speed of Decker truck approximately 35 to 40 miles per hour.

Entered Dodge County, State Patrol turned off Dodge County still following on U. S. Highway 68, headed for Fox Lake. First Dodge County squad still ahead of us.

(5) Later picked up and followed by second squad car (Dodge County 55 Nash license No. 322). Decker truck stopped at intersection Highway 68—Two squads also stopped, joined by third (6) (a Pontiac, license No. 482).

Time is now 1:25. Later truck continued headed toward Portage with Pontiac license No. 482 following behind traveling on Highways 22 and 33, back on U. S. 16, crossing into Columbia County. Just before Wisconsin Dells squad No. 6 drops off, picked up by a (7) brown Pontiac (license No. V-1104) and followed by him.

Traveling now on Highway 13, 16, and 23 into Sauk County (time 2:45 p. m.). Headed right on Highway 12 and 16 (46 miles) to Tomah.

Picked up again from behind by a (8) Plymouth (license No. 218), flasher going on squad car passing us and dropping in back of truck (time 3:15 p. m.) followed by the (9) second squad car.

Black Nash squad car No. 8, license No. 218, falls behind us flasher again on and siren, pulls us over to the side and told us to follow him to police station, the sheriff had a couple complaints about us.

Explained our position and story and were told the driver said we tried to run him off the road. (Note).—Truck having protection all the way from

police forces and we stayed a good 500 feet behind—it was impossible to run him off the road. After talking to undersheriff of Mauston we were released upon story and told better get going if you want to catch him. Time 3:50 p. m.

After approximately a 20- to 25-minute lead we continued or chased to see if we could pick him up again. Entered Monroe County on Highway 16 headed for Sparta joined with Highway 71—passed through Sparta into La Cross County entered La Cross and picked up our baby crossing Missouri River and (Mississippi River) crossed into Minnesota (note no escort behind). Entered Hokah, Minn., turned left on 44 and 76, entered Spring Grove and later Felmore County (time 6 p. m.) on Highway 52 and 63 back left on Highway 16 and 63 through Preston. (Change drivers in flight.)

Entered Spring Valley—time 7:17. (Driver was slowing down seemed tired from driving.) Entered Austin, Minn., still on Highway 16, time 8:05—8:15 p. m., truck pulled in filling station and eat shop.

We also enter to eat and gas up again. Passed out literature and explained our purpose of our mission to people in eat shop. (Sat next to driver in eat shop.) Driver asked what we planned to do, set up a picket line or what? (He was frankly told that was up to us what we were going to do.) Getting dark driver felt terrible, and didn't want to continue flight.

Again he called in for protection and waited for it. Highway patrol arrived from Freeborn City. License No. 668—officer's badge No. 5. (Note: Driver told us four in front of the officer—he was told by his boss from Decker to run us off the road), time 9:05. Driver also told officer he hauled a load of meat up from Iowa.

Explained to officer, truck was going to Souix City, and we should go ahead of him. Officer explained there was no violations made, and we came this distance—fellow there's nothing I can do. Continued on way.

P. S.: Passed a sign pointing off to the left, it said, "Conger," any relation to Lyman?

Continued on Highway 13-16-19. Right at Blue Earth to Guckien—followed truck into Fairmount. Where the truck stopped off—driver checked into hotel—followed into hotel and listened to conversation. Driver was supposed to get up at 4 a. m. Bought a couple magazines to listen to conversation. (Time: 11:45; bunked in.)

Two cops stopped off at car and warned us not to touch his truck. Later headed back south to Fort Dodge.

We bunked in at Fort Dodge at 2:45 a. m. Waited to morning to contact the CIO headquarters. Contacted UPWA (United Packing Workers of America). Explained our mission. Explained that the driver was from Fort Dodge and said he was a union man and was told to cross our line.

Complete check will be made by president of driver's local—by CIO (two locals). Will bring up our cause at following meeting on the 14th of June 1955. Promised literature explaining the issues and background of the Kohler strike.

Also enter Armstrong Plumbing and Heating, 619 First Street, telephone: Walnut 1881, Fort Dodge and asked if they sold Kohler plumbing ware of which they said they sold a lot. (Don't know if it was just sales talk or what.)

Also noticed Kohler of Kohler News laying on counter (April issue). Reported to CIO headquarters about it—later called the plumbing concern and one of our men picked up the April issue and turned into CIO headquarters. Girl from office asked if they were trying to make fools out of the CIO men by displaying the literature. Had done previous business with this plumbing firm amounting to better than \$6,000 worth and people in Armstrong seem afraid and asked what everything was about.

Later returned homeward passing out balance of literature on stops.

JOHNSEN.

The CHAIRMAN. Are there any further questions, Mr. Counsel?

Mr. KENNEDY. We have that report, which I believe goes into it. You have some questions on the report, do you?

Why don't you ask him that?

Senator CURTIS. All right.

Were you in the hearing room today when these truck drivers, Mr. Taylor, and Mr. Butzen, and Mr. Schinabeck testified?

Mr. JOHNSEN. Yes, sir; I was.

Senator CURTIS. Had you ever seen those men before?

Mr. JOHNSEN. I could not identify them by sight, sir; no.

Senator CURTIS. You knew who they were?

Mr. JOHNSEN. When they were here; yes, sir.

Senator CURTIS. You recognized them as individuals who had been transporting Kohler material?

Mr. JOHNSEN. No, sir; I can't say I do.

Senator CURTIS. Did you ever follow those men?

Mr. JOHNSEN. I don't know, sir.

Senator CURTIS. You don't know?

Mr. JOHNSEN. No.

Senator CURTIS. You think you might have?

Mr. JOHNSEN. It is possible.

Senator CURTIS. Did you ever follow a truck from the Scheffler Transportation Co.?

Mr. JOHNSEN. Yes, sir; I did. Into Chicago.

Senator CURTIS. Into Chicago?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. Do you know who was driving that time?

Mr. JOHNSEN. No, sir; I don't.

Senator CURTIS. Did you follow more than one of their trucks?

Mr. JOHNSEN. It could have been two, sir, but I don't believe I did, and I think it was only one Scheffler truck.

Senator CURTIS. Now, all three of these men were driving for Scheffler, and you say that you may have followed them?

Mr. JOHNSEN. I may have, sir.

Senator CURTIS. One of them. I have noticed this report here and it appears to be dated June 10, 1955, and it says, "Trip No. 1 to Iowa." How many trips to Iowa did you make?

Mr. JOHNSEN. Just one, sir.

Senator CURTIS. How many trips outside of Wisconsin did you make in this follow-the-truck committee work?

Mr. JOHNSEN. The only truck, sir, I followed was the one to Iowa, and I believe there was one Scheffler.

Senator CURTIS. Did you go outside of Wisconsin on any other occasion?

Mr. JOHNSEN. No, sir.

Senator CURTIS. Did you follow any truck that was headed for out of the State, but did not continue beyond Wisconsin?

Mr. JOHNSEN. Not to my knowledge, sir.

Senator CURTIS. Did you follow some trucks in Wisconsin?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. Did you always follow them to their destination?

Mr. JOHNSEN. In Wisconsin, sir?

Senator CURTIS. Yes.

Mr. JOHNSEN. Yes, sir; usually we did. To my knowledge I think we did, because most of the trucks that I followed in Wisconsin, I believe in fact all of them were trucks that went to Milwaukee, Wis.

Senator CURTIS. And you followed them there, and you followed them right up to where they made the delivery?

Mr. JOHNSEN. Yes, sir; to the street in front.

Senator CURTIS. And you would make an appearance at the point of delivery, would you not?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. You would picket there?

Mr. JOHNSEN. In cases we did, sir.

Senator CURTIS. Now, you said something about the money you received for this was in place of what you would do this in, or instead of doing picket duty. Will you explain that a little bit more to me? I did not quite understand.

Mr. JOHNSEN. We didn't get money for doing this duty. We get money to cover our expenses, such as meals and gas and stuff for the cars.

(At this point, the following members of the committee were present: Senators Curtis and Goldwater.)

Senator CURTIS. Would you have been able to draw your weekly strike benefit if you had not performed this duty or picket duty?

Mr. JOHNSEN. Yes, I would, sir.

Senator CURTIS. Then you volunteered to do it?

Mr. JOHNSEN. Yes, sir, I told you that before.

Senator CURTIS. Now, in this report of trip number one to Iowa—by the way, do you have a copy of it there? I am going to refer to it.

(The document was handed to the witness.)

Senator CURTIS. In the last part of paragraph 1 on page 1, you have reported—

In Fond du Lac, Decker Truck stopped on main drag, later at the police station. Explained to a detective that he was (names taken) being followed and didn't want his head smashed in.

Did you make that report?

Mr. JOHNSEN. Yes, sir, I did.

Senator CURTIS. How did you find out that this man, this driver, told the detective he didn't want his head smashed in?

Mr. JOHNSEN. Sir, we overheard the conversation. The man was scared because we were following his truck.

Senator CURTIS. You frightened him?

Mr. JOHNSEN. No, we didn't frighten him. I didn't say that, sir.

Senator CURTIS. What was he afraid of?

Mr. JOHNSEN. I don't know.

Senator CURTIS. Afraid of the weather?

Mr. JOHNSEN. That could have been.

Senator CURTIS. Do you think it was?

Mr. JOHNSEN. No, sir, it wasn't.

Senator CURTIS. Well, if he was scared, who frightened him?

Mr. JOHNSEN. We didn't, sir.

Senator CURTIS. But you did follow him into the police station?

Mr. JOHNSEN. No, sir.

Senator CURTIS. How did you overhear him tell a detective he didn't want his head smashed in?

Mr. JOHNSEN. They talked to the detectives. The detectives were called and he stopped on the main drag.

Senator CURTIS. Was anybody with you?

Mr. JOHNSEN. Was anybody with me?

Senator CURTIS. Yes.

Mr. JOHNSEN. Yes, I believe there were three other people.

Senator CURTIS. Who were they?

Mr. JOHNSEN. I believe they were Ronald Ziller.

Senator CURTIS. Who is Ronald Ziller?

Mr. JOHNSEN. A striker from local 833.

Senator CURTIS. He lives where?

Mr. JOHNSEN. In Sheboygan.

Senator CURTIS. Who were the others?

Mr. JOHNSEN. Frank E. Schultz.

Senator CURTIS. Where does he live?

Mr. JOHNSEN. I believe in Sheboygan. He is a striker also.

Senator CURTIS. And the third one?

Mr. JOHNSEN. It was either Fritz Byrum or Fritz Metthias.

Senator CURTIS. Where does he live?

Mr. JOHNSEN. Right out of Sheboygan, sir, in the township.

Senator CURTIS. Is he a striker?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. Did any international representatives or anyone other than strikers of Local 833 ever accompany you on this follow the truck business??

Mr. JOHNSEN. No, sir.

Senator CURTIS. What did you tell the detectives when this driver—by the way, what was the driver's name?

Mr. JOHNSEN. Well, what did you say to the detective when you heard the driver come up in the manner which you have described, in which he was scared?

(At this point, Senator McClellan entered the hearing room.)

Mr. JOHNSEN. In Fond du Lac?

Senator CURTIS. Yes. When he said he didn't want his head smashed in. What did you say?

Mr. JOHNSEN. I don't recall, sir.

Senator CURTIS. Did you say anything?

Mr. JOHNSEN. I don't think I did.

Senator CURTIS. You didn't deny it?

Mr. JOHNSEN. I didn't deny what, sir?

Senator CURTIS. That he was frightened, and you didn't protest his statement—I will withdraw the word "deny." Did you protest his statement about he didn't want his head smashed in?

Mr. JOHNSEN. No, sir. I had nothing to say about that.

Senator CURTIS. He was frightened?

Mr. JOHNSEN. I believe so.

Senator CURTIS. Then reading on, it says:

We were again questioned by the (2) Fond du Lac detective Treelevel, and later told off by Sheriff George LaMuel—warned of the previous blasting and told we'd end up in the jail.

Was it Sheriff LaMuel who told you off and warned of the previous blasting and told you you would end up in jail?

Mr. JOHNSEN. No, sir. I will explain that a little bit in detail.

Senator CURTIS. All right.

Mr. JOHNSEN. Not so long ago, I believe just before that incident, there was a car blown up and I believe it was in Fond du Lac County at that time. He made a statement of some kind that he didn't want no trouble from any Kohler strikers. That is what I meant by the warning, sir.

Senator CURTIS. Did he warn of a previous blasting and told you you would end up in jail?

Mr. JOHNSEN. He told us about it, yes. He told us about this car being blown up.

Senator CURTIS. In your report you said "Later told off by Sheriff George LaMuel," then a dash "Warned of the previous blasting and told us we'd end up in jail."

Mr. JOHNSEN. Sir, he mainly told us that he didn't want any trouble from us in any way. We explained our position, that we were just following the truck, that we didn't harm the driver, we didn't carry any weapons of any kind, and that was our present position at the time.

Senator CURTIS. This is a correct report, that he warned of the previous blasting and told you you would end up in jail?

Mr. JOHNSEN. That is right, sir. When he says he warned of the blasting, he was talking about the explosion that happened.

Senator CURTIS. What did you say to him?

Mr. JOHNSEN. I don't recall I answered him, sir.

Senator CURTIS. It seems like by the time we got through the first paragraph here that once in your presence, the driver makes a statement he didn't want his head smashed in, and you didn't protest that. Then later you were told off by the Sheriff and warned of the previous blasting and told "We'd end up in jail" and you said nothing about that?

Mr. JOHNSEN. That has nothing to do with us, sir. We hadn't threatened the driver to smash his head in to start with. We explained to the detectives in Fond du Lac that this was peaceful following of the truck, and that is exactly what we did, sir.

Senator CURTIS. Was this visit at Taylor's home a peaceful one?

Mr. JOHNSEN. I don't know anything about that, sir.

Senator CURTIS. Was the visit to Mr. Butzen's home a peaceful one?

Mr. JOHNSEN. Are you insinuating that these acts of vandalism were caused by the strikers, sir?

Senator CURTIS. I don't know who did it.

Mr. JOHNSEN. That is what it sounds like.

Senator CURTIS. That is what I am trying to find out. I think eventually we will. This hearing may close, but this will come out. This was too much of a network, too well organized, with the same weapons used in each place. This is going to come out some time.

Mr. JOHNSEN. I hope it does, sir. I think you will be surprised, too.

Senator CURTIS. I expect I will, and I don't care who is hurt if the truth is established. I think reigns of terror against women and children, against homes, when the truth comes out, if it is the truth, I hope the responsible people are dealt with. Now, on page 2 of this report you made of your trip, near the bottom of the page, the fifth line from the bottom, there is in parenthesis "change drivers in flight." What does that mean?

Mr. JOHNSEN. Well, sir, we switched drivers.

Senator CURTIS. In flight? What does that mean?

Mr. JOHNSEN. While we were driving, sir.

Senator CURTIS. But it says "flight."

Mr. JOHNSEN. Flight, yes, sir. We were following the truck.

Senator CURTIS. I don't get the point of the word "flight."

Mr. JOHNSEN. Well, that is just an expression, sir.

Senator CURTIS. That, to me, has two connotations, and one is that someone is fleeing, running away from something, and the other is that they are actually flying.

Mr. JOHNSEN. That is very simple, sir. We did not come to a dead stop.

Senator CURTIS. Then on the top of the next page, beginning in the second line—

Getting dark. Driver felt terrible and didn't want to continue flight.

Was that your driver or the truckdriver that you are talking about?

Mr. JOHNSEN. Just a moment, sir.

(The witness conferred with his counsel.)

Mr. JOHNSEN. That was the truckdriver, sir.

Senator CURTIS. How do you know he felt terrible?

Mr. JOHNSEN. Because we overheard a conversation between him and the officer that he had called. He had stopped at a restaurant to eat, as you read in the previous testimony there.

Senator CURTIS. Whenever he would stop you would stop?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. And when he would go in some place to eat, you would go in there?

Mr. JOHNSEN. Yes, sir. We got hungry, too.

Senator CURTIS. So when he stopped and talked to the officers, you knew he was frightened. But do you mean to say under oath you didn't know what frightened him?

Mr. JOHNSEN. I told you that we were following the truck, sir.

Senator CURTIS. All right. Answer my question. You followed him all over, right with him, you would hear his conversation.

Mr. JOHNSEN. I could not read his mind, sir. I imagine it was the idea of us following him.

Senator CURTIS. But you were a good enough observer that you volunteered the information to me that he was frightened.

Mr. JOHNSEN. That is right, sir.

Senator CURTIS. Is it your statement under oath you don't know what frightened him?

Mr. JOHNSEN. I say it probably was the car that was following the truck.

Senator CURTIS. Which was you people?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. All right. Let's not take so long to get simple answers. Now in the middle of page 3—

Continued on Highways 13, 16, 69, right at Blue Earth to Buckien—followed truck into Fairmont. Where the truck stops off—driver checked into hotel. Followed into hotel and listened to conversation.

Did you follow him into the hotel?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. Did your two companions follow him?

Mr. JOHNSEN. No, sir. I believe there was only one, sir.

Senator CURTIS. Did you start out on this trip with two companions?

Mr. JOHNSEN. Three, sir.

Senator CURTIS. Three. Did all of them go all the way?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. But there were just how many of you that went into the hotel?

Mr. JOHNSEN. Two of us, sir.

Senator CURTIS. And you listened to his conversation?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. How close were you?

Mr. JOHNSEN. I would say within maybe 20 feet, sir. Maybe a little closer.

Senator CURTIS. You knew this man was frightened. You knew that he had asked officers for protection. Why did you continue to follow him everywhere he went and listen to him?

Mr. JOHNSEN. I went into that hotel, sir, to buy magazines to read, as it later states in my testimony here.

Senator CURTIS. You went in for the purpose of buying magazines?

Mr. JOHNSEN. Yes, because—

Senator CURTIS. What does this mean? Just a minute. It says "Bought a couple magazines to listen to conversation."

Mr. JOHNSEN. That is right.

Senator CURTIS. Now you tell me that you went in for the purpose of getting the magazines.

Mr. JOHNSEN. I killed 2 birds with 1 stone.

Senator CURTIS. Did you have anything to do with the other stones in the strike?

Mr. JOHNSEN. No, sir.

(At this point, Senator Goldwater withdrew from the hearing room.)

Senator CURTIS. You don't know anything about that.

Mr. JOHNSEN. No, sir.

Senator CURTIS. How big were these fellows that followed this driver?

Were they as big as you were?

Mr. JOHNSEN. Some of them were a lot smaller, sir.

Senator CURTIS. "Driver was supposed to get up at 4 a. m. How did you find that out?"

Mr. JOHNSEN. From his conversation, sir, with the hotel clerk.

Senator CURTIS. It says "Time 11:45, bunked in." Who went to bed at that time?

Mr. JOHNSEN. The driver did, I presume.

Senator CURTIS. Then it says—

Two cops stopped off at car and warned us not to touch his truck.

Did that happen?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. Now, you were just innocent visitors to town, peaceful men. Why did the cops come up and tell you, and warn you not to touch his truck?

Mr. JOHNSEN. That is very easy, sir. I believe at the time I heard what time he was checking into the hotel, that when he said that, we bought our magazines and left and went out to the car, where our other 2 companions or 2 strikers were sitting in. Well, then, if you put 2 and 2 together, I imagine he had called from the hotel and warned the cops to keep an eye on his truck because he was sleeping over.

I don't know what danger he expected that would happen from us. We followed him all the way through and never harmed him anyplace, never threatened anyplace, never carried any weapons of any

kind anyplace, and still he was scared we were going to hurt that truck.

Senator CURTIS. He was still scared?

Mr. JOHNSEN. I believe he was. He must have been. Otherwise he wouldn't have called the cops.

Senator CURTIS. What makes him scared?

Mr. JOHNSEN. What makes him scared?

Senator CURTIS. Yes.

Mr. JOHNSEN. Probably his conscience was bothering him.

Senator CURTIS. Do you believe that?

Mr. JOHNSEN. In a way, sir.

Senator CURTIS. You don't think it was the fact that you followed him along and if he stopped to go in some place, you followed along and listened to his conversation?

Mr. JOHNSEN. Well, I repeat, I will repeat again, as I said before, I figured that the final act that we were following him was probably what scared him.

Senator CURTIS. Do you know what driver this was?

Mr. JOHNSEN. No, sir, I don't. It was a Fort Dodge truck, a Decker transportation truck, sir.

Senator CURTIS. It says toward the end of your report—

Mr. JOHNSEN. Can I make a statement, sir?

Senator CURTIS. Surely.

Mr. JOHNSEN. As you notice on this report, when he checked into this restaurant here, you seem to have skipped that part, where the officer was called again on the report, and he told the driver right straight to his face that we did not harm him in any way,

We cannot give you protection. These guys are not going to hurt you.

Senator CURTIS. Did the police tell him that?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. Why did the police tell him that?

Mr. JOHNSEN. Because we hadn't hurt him through every county.

Senator CURTIS. Then it was you people who were frightening him; wasn't it?

Mr. JOHNSEN. I don't know, sir. I say that is probably his conscience or else behind him.

Senator CURTIS. The conversation that you just reported of the police, the police told him you couldn't hurt him.

Mr. JOHNSEN. That is right. The officer said we did not molest him, sir, which he didn't. And we told the officer we meant no harm, and which we didn't.

I don't think there is any law, sir, that a man can't drive on the highway any place.

Senator CURTIS. That is right.

(At this point, Senator Goldwater entered the hearing room.)

Senator CURTIS. Now, toward the end of the statement—

Mr. JOHNSEN. What page, sir?

Senator CURTIS. The very last, page 4, about the next to the last line, "And people in Armstrong seemed afraid." What are they afraid of?

Mr. JOHNSEN. Well, I believe we inquired at this one place, sir, where they were selling Kohler plumbing and asked them how much

they were selling and everything else, and what I mean by that, sir, is that they were afraid.

They never did give us too much information of any kind.

Senator CURTIS. You have mentioned somebody being afraid here and reference to someone reporting they thought their head would be smashed in. You volunteered that the driver was afraid. We have taken testimony this afternoon or today about the violence that occurred at the home of Mr. Taylor and Mr. Butzen. Violence occurred at Mr. Schinabeck's home, where their wives and children lived, which frightened them as well as damaged their property.

It is fitting into a picture that fear and intimidation might be a part of this boycott. Is that right?

Mr. JOHNSEN. No, sir. I don't believe so. Not in my mind.

Senator CURTIS. Did you picket Kohler Co. showroom and branch office in Milwaukee?

Mr. JOHNSEN. Yes, sir, I believe I did.

Senator CURTIS. Was that about June 17, 1954, along in the evening about 6:30?

Mr. JOHNSEN. I wouldn't say for sure.

Senator CURTIS. Did you and three other strikers picket the F. R. Dingell Co. in Milwaukee about June 1, 1955?

Mr. JOHNSEN. It is very possible, sir. I said we were there.

Senator CURTIS. And did you picket at a point where Kohler ware was being unloaded and around the cab of a Kohler Co. truck?

Mr. JOHNSEN. I believe so.

Senator CURTIS. And did you carry signs?

Mr. JOHNSEN. I believe we did, to the best of my knowledge.

Senator CURTIS. What did the signs say?

Mr. JOHNSEN. Something about Kohler ware was made by scabs and strikebreakers.

Senator CURTIS. And this was done while you were picketing the Dingell Co.?

Mr. JOHNSEN. I don't remember, sir, what was on all the signs. They were made by our board.

Senator CURTIS. Was there any labor trouble in the Dingell Co.?

Mr. JOHNSEN. No, sir.

Senator CURTIS. Do you have any evidence that the management or the employees of the Dingell Co. were not worthy people, trying to carry on their work and business?

Mr. JOHNSEN. No, sir.

Senator CURTIS. But you were trying to stop their business; weren't you?

Mr. JOHNSEN. I wouldn't say so, sir.

Senator CURTIS. Did you make any remarks to those people while you were around the Dingell Co. unloading that day?

Mr. JOHNSEN. To what people, sir, the people unloading?

Senator CURTIS. Yes; or anybody else around there.

Mr. JOHNSEN. I don't recall, sir.

Senator CURTIS. Was anybody called "scabby" in that?

Mr. JOHNSEN. That could have happened, sir.

Senator CURTIS. It probably did?

Mr. JOHNSEN. It probably did, sir. The word "scab" was used many times in this strike, and it is still going to be used.

Senator CURTIS. Did anybody come around with a camera?

Mr. JOHNSEN. I believe so. I think there were several occasions we had our pictures taken.

Senator CURTIS. Did you say anything to the people with the camera?

Mr. JOHNSEN. I don't recall, sir.

Senator CURTIS. Did you say, "We don't need cameras. We can smell you."

Mr. JOHNSEN. That is possible.

Senator CURTIS. You probably did?

Mr. JOHNSEN. I probably did, sir.

Senator CURTIS. Did you refer to the Kohler truckdriver as a scab driver?

Mr. JOHNSEN. I probably did, sir. To my knowledge, that is what he was.

Senator CURTIS. Were Raymond Majerus and Robert Treuer, UAW international representatives, also active in picketing in Milwaukee?

Mr. JOHNSEN. I don't recall, sir. I believe they did come down to the showroom once, but I don't recall.

Senator CURTIS. Were Ray Majerus and Robert Treuer the organizers of the picketing in Milwaukee?

Mr. JOHNSEN. I don't know, sir.

Senator CURTIS. Who paid your expenses to Milwaukee?

Mr. JOHNSEN. Who paid our expenses?

Senator CURTIS. Yes.

Mr. JOHNSEN. The union executive board.

Senator CURTIS. The local or the international?

Mr. JOHNSEN. I believe it was the international, sir, because I think our local is broke.

Senator CURTIS. Who did you get your instructions from?

Mr. JOHNSEN. Who did we get our instructions from?

Senator CURTIS. Yes.

Mr. JOHNSEN. In what instance are you speaking about, sir?

Senator CURTIS. Generally.

Mr. JOHNSEN. I got my instructions at strike headquarters.

Senator CURTIS. From whom?

Mr. JOHNSEN. From whom, sir?

Senator CURTIS. Yes.

Mr. JOHNSEN. From Curtis Nack.

Senator CURTIS. What was his position?

Mr. JOHNSEN. I do not know, sir. He met with the committee in the mornings in their meetings when they held it at the regional office, and whatever was decided there, he came out and the money was given to me at the strike kitchen and we were told what trucks we should follow, if we should follow any.

Senator CURTIS. Is he a local man?

Mr. JOHNSEN. A union man; yes, sir.

Senator CURTIS. Is he a local man?

Mr. JOHNSEN. Local 833; yes, sir.

Senator CURTIS. In your opinion, he was the virtual boss?

Mr. JOHNSEN. He was my boss.

Senator CURTIS. Who was the top boss?

Mr. JOHNSEN. I think Leo Brierather testified he was in charge of the boycott.

Senator CURTIS. I am asking you. Who do you think was really running this activity?

Mr. JOHNSEN. Who do I think, sir?

Senator CURTIS. Yes.

Mr. JOHNSEN. The international, I think; that is where our money come from.

Senator CURTIS. Well, now, your——

Mr. JOHNSEN. I want to state one thing, sir. I have never got any instructions from our local or any international union official of any kind to picket any place.

Senator CURTIS. Well, now, your objective was to stop or decrease the sales of Kohler products; wasn't it?

Mr. JOHNSEN. No, sir. Our mission, as I explained before, was to find out where this merchandise was going, and to contact the people in the immediate area and tell them the Kohler story.

Senator CURTIS. Yes. Well, now, my question wasn't related to the limited purpose of your following the trucks, but the purpose of the boycott was to get people to either stop buying Kohler products or at least to decrease the sales; is that correct?

Mr. JOHNSEN. I think that is the purpose of the entire boycott, sir.

Senator CURTIS. Now, you realize that that would shut off the business and employment of distributors and others who were not parties?

Mr. JOHNSEN. No, sir.

Senator CURTIS. You didn't know that?

Mr. JOHNSEN. No, sir.

Senator CURTIS. Did you picket at the Dingell Co. more than 1 day?

Mr. JOHNSEN. I believe I did, sir.

Senator CURTIS. About how many days?

Mr. JOHNSEN. I wouldn't know offhand. I believe I made about 6 or 8 trips, maybe a couple more. That is including the trip to Chicago, the trip to Iowa, and the rest were in Milwaukee, sir.

Senator CURTIS. Well, now, in Milwaukee, this picketing was done not at a Kohler showroom, but it was at a place of business of a third party; wasn't it?

Mr. JOHNSEN. Yes, sir; if you want to call it that.

Senator CURTIS. Well, wasn't it?

Mr. JOHNSEN. I believe the place was owned by the Kohler Co.

Senator CURTIS. The Dingell Co.?

Mr. JOHNSEN. I thought you were talking about the showroom, sir.

Senator CURTIS. No. I said other than the showroom.

Mr. JOHNSEN. The Dingell Co., yes, that was a third party.

Senator CURTIS. Did you later on in June 1955, about the 17th, follow a Kohler truck to the B. Hoffman Manufacturing Co.?

Mr. JOHNSEN. It is possible I did, sir.

Senator CURTIS. Where is that located, what city?

Mr. JOHNSEN. Milwaukee, sir, I think, or right on the outskirts.

Senator CURTIS. Did you mill around the truck?

Mr. JOHNSEN. No, sir.

Senator CURTIS. That is, when it arrived?

Mr. JOHNSEN. No, sir.

Senator CURTIS. Did you check the ware being unloaded?

Mr. JOHNSEN. Yes, sir; I probably did. One of our main purposes was to find out—we heard a lot of rumors, sir, that these trucks were

going out of the plant half loaded, empty, and everything else, just to give us ideas during the strike. That was also a purpose of this boycott, was to find out the truth.

Senator CURTIS. The Hoffman Co., that is a neutral business, isn't it?

Mr. JOHNSEN. I believe so, sir.

Senator CURTIS. So far as you know, they had no trouble with their employees?

Mr. JOHNSEN. I don't know of any, sir.

Senator CURTIS. So far as you know, both management and employees there were worthy people, entitled to carry on their pursuit of their work?

Mr. JOHNSEN. I believe so, sir.

Senator CURTIS. Now, while you were around the truck and checking what was being unloaded, did you say anything to the truckdriver?

Mr. JOHNSEN. I don't recall, sir. That is quite a few years ago.

Senator CURTIS. Do you think you might have called him a rotten scab?

Mr. JOHNSEN. It is possible, sir.

Senator CURTIS. Had it often happened?

Mr. JOHNSEN. Off and on, sir.

Senator CURTIS. It happened sometimes?

Mr. JOHNSEN. Yes; it did, sir.

Senator CURTIS. Did you hand literature to the truckdrivers?

Mr. JOHNSEN. To the truckdrivers, sir?

Senator CURTIS. Yes.

Mr. JOHNSEN. I don't know if we handed it to the truckdrivers, but we did pass out literature in places.

Senator CURTIS. Did you pass out literature to other truckdrivers that would come up to the Hoffman Co. while you were checking this load?

Mr. JOHNSEN. It is very possible we did, sir, if they stopped and talked to us.

Senator CURTIS. Did you have any placards or signs to carry?

Mr. JOHNSEN. It is possible we did, sir.

Senator CURTIS. I am talking about this procedure in front of this neutral business. You had some signs there?

Mr. JOHNSEN. I believe so, sir.

Senator CURTIS. Who provided them?

Mr. JOHNSEN. Who provided the signs?

Senator CURTIS. Yes.

Mr. JOHNSEN. The union.

Senator CURTIS. Do you mean the international union?

Mr. JOHNSEN. Well, the international paid for the making up of them, but I believe they are made up by our local union.

Senator CURTIS. You live around there; don't you?

Mr. JOHNSEN. Yes, sir; very close to there.

Senator CURTIS. The international financed the whole strike and everything connected with it; did they?

Mr. JOHNSEN. I believe they did, after our local went broke, sir.

Senator CURTIS. Did you later, in June, about the 24th, 1955, follow a Kohler truck?

Mr. JOHNSEN. I could have, sir.

Senator CURTIS. Did you drive your own car on these occasions?

Mr. JOHNSEN. No, sir.

Senator CURTIS. Did you ever drive your car?

Mr. JOHNSEN. No, sir; there was times during the strike I didn't have a car, sir.

Senator CURTIS. Did you ever drive a car that had a top sign on it?

Mr. JOHNSEN. I drove in a car with top signs on it, sir.

Senator CURTIS. Describe that top sign.

Mr. JOHNSEN. The top sign?

Senator CURTIS. Yes.

Mr. JOHNSEN. It was a three-cornered sign, with literature on it telling the public not to buy Kohler plumbing ware or fixtures because they were made by scabs or strikebreakers.

Senator CURTIS. Did you follow the truck to the Glendale Supply Co.?

Mr. JOHNSEN. That is possible, sir.

Senator CURTIS. What city is the Glendale Supply Co. in?

Mr. JOHNSEN. I believe that is right out of Milwaukee sir.

Senator CURTIS. And that is another neutral concern. Not part of Kohler?

Mr. JOHNSEN. No, sir.

Senator CURTIS. You carried on a procedure there something like you did at Dingell and at Hoffman?

Mr. JOHNSEN. I don't believe we picketed there, sir.

Senator CURTIS. Did you follow a truck to Kenosha?

Mr. JOHNSEN. I don't think I did, sir.

Senator CURTIS. What are you doing these days?

Mr. JOHNSEN. What am I doing?

Senator CURTIS. Yes.

Mr. JOHNSEN. Working for a living. I am employed at the Lawson engine division of the Tecumseh Products in New Holstein, Wis.

Senator CURTIS. You are no longer around Kohler?

Mr. JOHNSEN. I live close by Kohler, yes, sir.

Senator CURTIS. But you are no longer connected with either the union or the company?

Mr. JOHNSEN. No, sir.

Senator CURTIS. Are you one of the individuals the company said they didn't want to take back?

Mr. JOHNSEN. No, sir.

Senator CURTIS. How long were you out on strike before you took this or some other job?

Mr. JOHNSEN. I believe I started working, if I am not mistaken, at the Tecumseh Products, New Holstein, in 1955 for a short time, and then we were laid off, and then in 1956 and 1957 on. Or it probably was 1956 when I started this, sir.

Senator CURTIS. Has this strike cost you a loss?

Mr. JOHNSEN. Yes, sir.

Senator CURTIS. It cost you a loss of money?

Mr. JOHNSEN. Certainly.

(At this point, Senator Goldwater withdrew from the hearing room.)

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Are there any further questions?

If not, thank you. You may stand aside.

Mr. RAUH. Mr. Chairman, we have a number of—we have two affidavits I would like to put in. The reason for that is I understand Mr. Johnsen is the only witness being called in connection with our follow-the-truck committee.

The CHAIRMAN. With what?

Mr. RAUH. The only witness being called by the committee on the follow-the-truck committee. The reason we prepared this affidavit is we understood there was to be testimony of the type that occurred this afternoon by the three truckdrivers, and we found every follow-the-truck committee member we could locate after we heard this. We have an affidavit from all of them, two affidavits in total.

The CHAIRMAN. I will tell you what you do. Submit the affidavits for our inspection and you can call it to our attention when we resume Monday.

Senator CURTIS. I have one other question. Did you make any other reports in writing besides this one about your Iowa trip?

Mr. JOHNSEN. I don't recall, sir, I don't believe I did.

Senator CURTIS. That is the only report you made in writing that you recall?

Mr. JOHNSEN. Yes, sir. May I make a statement?

(The witness conferred with his counsel.)

(At this point, Senator Goldwater entered the hearing room.)

Mr. JOHNSEN. Sir, may I make a statement yet?

Mr. Chairman, may I make a statement yet?

The CHAIRMAN. Mr. Johnsen, you may make a statement. The Chair will observe, as you speak, whether it is proper.

Mr. JOHNSEN. I want to say this: That at the time these people had crossed our picket line in Kohler, this was a legal strike, and these men, what so-called union men, did cross our line there that testified today, and there is no evidence whatsoever that these here cases of vandalism that were convicted against the homes of these people were ever caused by our members of the local or the international, that ever went on testimony here, and also about this——

The CHAIRMAN. There is no use to make a speech.

There is some indication that it is caused from that source.

Mr. JOHNSEN. One more thing, sir?

The CHAIRMAN. You couldn't convince me by arguing for an hour or two. Go ahead.

Mr. JOHNSEN. This third party business, sir, I believe that there is plumbing ware made by Briggs, Crane, Rundle and other competitors of the Kohler Co. that is made just as good if not better than the Kohler Co. plumbing, and I believe these people which is so-called the third party could have sold this ware much better than the Kohler Co. ware.

The CHAIRMAN. That is a good plug for those other companies. Now would you say that at the time the strike was called, that their product was better than Kohler's?

Mr. JOHNSEN. No, sir. But I say during the strike.

The CHAIRMAN. Well, again you want to attribute that to some scab. Is that what you are trying to put over?

Mr. JOHNSEN. No, sir. I want to contribute that to the amount of people that have come from all parts of the country and moved into the Kohler Co. plant.

The CHAIRMAN. Are you willing to let the people who buy the products judge which one they want?

Mr. JOHNSEN. Yes, sir, I am.

The CHAIRMAN. That is a good idea.

On that theme we will stand adjourned until Monday morning at 10:30.

I do not know whether it will be in this room or the other one.

(Whereupon, at 4:10, with the following members of the committee present: Senators McClellan, Goldwater, and Curtis, the hearing was adjourned until 10:30 a. m. Monday, March 24, 1958.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

MONDAY, MARCH 24, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee met at 11:03 a. m., pursuant to Senate Resolution 221, agreed to January 29, 1958, in room 357. Senate Office Building, Washington, D. C., Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Sam J. Ervin, Democrat, North Carolina; Senator Barry Goldwater, Republican, Arizona; Senator Karl E. Mundt, Republican, South Dakota; Senator Carl T. Curtis, Republican, Nebraska.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Alderman, assistant chief counsel; John J. McGovern, assistant counsel; Ruth Young Watt, chief clerk.

The CHAIRMAN. The committee will come to order.

(Members of the select committee present at the convening of the session: Senators McClellan and Curtis.)

The CHAIRMAN. Call your first witness.

Mr. KENNEDY. Lucius P. Chase.

Mr. CONGER. Mr. Chairman, might I be heard for a moment?

The CHAIRMAN. All right, Mr. Conger.

TESTIMONY OF LYMAN C. CONGER—Resumed

Mr. CONGER. Mr. Chairman, I would like to offer at this time, in rebuttal of the Deis affidavit that was submitted here the other day, the testimony of John Deis in the case of Joe Jakolic and others, including John Deis, versus Kohler Co., Walter Kohler, Herbert Kohler, Robert Kohler, Walter Kohler, Jr., John Case, Edward George, Ernest Schuelke, and Edward Biever, defendants.

In his deposition that was taken under oath, on adverse examination before trial, on the 17th day of September, at 10 o'clock in the forenoon, at the office of Arthur Gruhle, before Arthur Gruhle, a court commissioner. I would like to offer that, and I would ask the privilege of reading a few excerpts of it.

The CHAIRMAN. That may be offered, and it will be placed with affidavits that were submitted the other day, together with two affidavits submitted last Friday by Mr. Rauh. They will all be placed in one exhibit in bulk, and held subject to further order of the committee. Your papers, Mr. Conger, the matters you are now refer-

ring to, submitting, may go along with them. This matter will take some study by members of the staff and members of the committee before final disposition of it can be made.

The testimony that you offered there will be placed along with all the rest, and we will make some disposition of it as soon as we can get to it.

Mr. CONGER. Very well.

The CHAIRMAN. Mr. Chase, come forward, please.

Mr. Conger, submit your documents to the clerk. Mr. Chase, you do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. CHASE. I do.

TESTIMONY OF LUCIUS P. CHASE, ACCOMPANIED BY LYMAN C. CONGER AND GIRARD A. DESMOND, COUNSEL

The CHAIRMAN. State your name, your place of residence, and business or occupation.

Mr. CHASE. My name is Lucius P. Chase, 315 Ridge Way, Kohler, Wis. Since 1926 I have been general counsel of Kohler Co., except for 4 years during World War II, when I was in the service. Since 1937 I have been a director of the company. The boycott which the UAW has been conducting against Kohler Co. has been my particular responsibility in recent year.

I have had charge of the company's efforts to combat it, assisted by Mr. Desmond, of my staff, and in cooperation with Mr. Conger, the chairman of the management committee.

The CHAIRMAN. Mr. Chase, you have submitted, I believe, a prepared statement of some 40 pages—is it?

Mr. CHASE. Yes, sir, I have.

The CHAIRMAN. Forty-four pages, I believe. Are you willing to file your statement and let it be printed in full in the record, and then just highlight it?

Mr. CHASE. Yes, Senator, that is exactly the way I intended to proceed. I have asked Mr. Desmond, who has testified previously, and who is assistant general counsel, to help me with exhibits which I will offer from time to time. While I am not going to read this statement, the exhibits are keyed to it, and I will use the statement as just a guide.

The CHAIRMAN. All right. Without objection, the witness' statement will be printed in the record in full at this point, and the witness may proceed and highlight his statement and introduce exhibits as he reaches them.

(The statement referred to is as follows:)

My name is Lucius P. Chase. Since 1926 I have been General Counsel for Kohler Co., except for a period during World War II when I was in military service as a Reserve officer.

Since 1937 I have been a director of Kohler Co.

The boycott which UAW-CIO has been conducting against Kohler Co. has been my particular responsibility and I have had charge of the company's efforts to combat it, working with Mr. G. A. Desmond of my staff and in cooperation with Mr. Lyman C. Conger, chairman of the management committee.

INTRODUCTION

The United Auto Workers have taken pains to label their Kohler boycott a "legal primary boycott." That, of course, would be a voluntary withholding of their own patronage by union members and sympathizers.

We would not contest the union's right to foster that sort of thing, at least if its promotional propaganda were recognizably related to the truth.

But a simple primary boycott of a product is largely an illusion.

In practice, a primary boycott almost inevitably becomes engulfed by a secondary boycott. While this may not always take the form of a technical violation of the Taft-Hartley Act as it has been construed, it does nearly always involve "drawing a neutral into an industrial dispute." The latter is the evil against which the 80th Congress directed its action, according to Judge Learned Hand, *International Brotherhood of Electrical Workers, Local 501, et al. v NLRB* (181 F. (2d) 34).

This sinister pressure on neutrals, to induce them to become unwilling co-conspirators with the United Auto Workers, characterizes the Kohler boycott.

Not once have the Auto Workers been willing to put their Kohler boycott to a legal test. In three cases, which will be discussed later, charges were filed with the National Labor Relations Board. In all three cases the union took consent decrees or restraining orders.

A distinguished Senator has been quoted as saying that "next to violence, the secondary boycott is the most vicious weapon used by union bosses."

It was in that same order, chronologically, that union violence and boycott appeared at Kohler.

The Kohler boycott started soon after it became apparent that the Auto Workers' primary weapon, violence, had failed.

On May 21, 1954, the Wisconsin Employment Relations Board had ordered the UAW international and local 833 to end their orgy of mass picketing and violence which had kept the plant closed for almost 2 months.

When the unions defied the order, the Board petitioned the circuit court for enforcement. Thereupon the unions announced that they would comply with the order. Although union violence continued in many forms, the mass picketing ceased and the plant began to operate.

The boycott followed.

In the late summer of 1954 groups of strikers began visiting Wisconsin cities, urging that Kohler products not be used on public buildings.

On September 30, 1954, the Kohlerian—weekly organ of the strikers—reported that—

"Milwaukee County, State and auto union leaders this week called on all union members, their families and the public to refrain from buying Kohler products in a move designed to strengthen the 7 months' long strike at the Sheboygan plumbingware firm.

"The statement was issued by Robert Jordan, president, and Fred Erchul, secretary, of Milwaukee County CIO; Harvey Kitzman, director, UAW region 10; Charles M. Schultz, president, and Ross Baum, secretary-treasurer, Wisconsin State CIO" (the Kohlerian, Sept. 30, 1954, p. 5).

This statement, standing alone, could be consistent with a primary boycott.

Then the Wisconsin State Industrial Union Council (CIO) "in convention assembled" in Milwaukee, October 20 to 24, 1954, adopted a resolution calling upon workers and others "to refrain from buying or installing any of the goods or wares produced by the Kohler Co." (the Kohlerian, Oct. 23, 1954, p. 9).

The reference to "installing" is significant. Plumbing fixtures are customarily installed by union journeyman plumbers, employees of plumbing contractors. Any resolution "to refrain from installing" Kohler plumbingware would necessarily be directed to them.

While additional evidence might be needed to establish a case technically, a secondary boycott such as this would clearly violate the intent of the Taft-Hartley Act.

Finally, on May 5, 1955, the Kohlerian announced that "a nationwide boycott of Kohler products is underway, and will feature picketing of various places to help advertise the boycott" (the Kohlerian, May 5, 1955, p. 1).

Here the reference to picketing is significant, for picketing of third parties usually violates the law. Thus, the auto workers' legal primary boycott stood exposed as a sham.

This was to be the powerful UAW's Sunday punch, the first successful national boycott in history.

"This is the most comprehensive boycott ever organized by labor * * *," boasted Donald Rand, UAW international representative in charge of the boycott, to Ray Vicker, Wall Street Journal staff reporter, in August of 1956.

Its purpose? "That's what we're doing, wrecking the company," said Mr. Rand in the same interview.

BOYCOTT ORGANIZATION

Donald Rand, of Detroit, who was then in charge of the Kohler strike, headed the boycott organization. The union currently refers to Mr. Rand as assistant to Emil Mazey, international secretary-treasurer of the UAW.

Leo Breirather, a striker, was named local 833 boycott coordinator, and was put in charge of the boycott headquarters in Sheboygan.

The field organization consisted of about 15 professionals, mostly international representatives or regional organizers of the auto workers.

Prominent among them are the following:

John Archambault, international representative: Active in Indiana, Ohio and Michigan.

Fred Ascough, international representative: Active in New York and vicinity.

Robert Burkart (and Grace, his wife), international representative: Originally in charge of the Kohler strike; later active in the boycott nationwide and more recently in California.

John Collins, international representative: Active in Illinois.

Garvin Crawford, international representative: Active in Chicago and vicinity.

Aubrey Durant, international representative: Formerly active in the South Central States.

Ovide Garceau, international representative: Active in New England, and particularly Waterbury, Conn., where he was an alderman.

Gerald Harris, international representative: Active in Pennsylvania, Maryland, and District of Columbia.

Harvey Kitzman, director, UAW region 10: Active in Wisconsin and Midwest.

Cecil J. Londo, international representative, Indianapolis, Ind.: Active in Indiana, Kentucky, Mississippi, Tennessee, and part of Georgia.

Raymond Majerus, international representative: Active in Wisconsin, Minnesota, Iowa, North Dakota, and South Dakota.

Rex Mainord, international representative: Active in southern California.

Luther M. Slinkard, UAW administrative assistant: Coordinates boycott activities in Missouri, Kansas, Colorado, Oklahoma, Texas, Louisiana, Arkansas, and New Mexico, comprising UAW region 5.

Tom J. Starling, international representative, Atlanta, Ga.: In charge of boycott in Georgia and other southeastern States.

Harold Wilson, international representative: Active in Ohio.

Several Kohler strikers are apparently employed full time in the field, notably Peter Gasser and Elmer Gross of Sheboygan. Their activities seem to gravitate around Chicago.

In addition to these, almost any paid employees of any union anywhere is likely to get into the act on occasion. Here and there an amateur appears.

Reporters who have seen the boycott headquarters have written of the "battle maps," the file cabinets and other equipment, likening it to a military headquarters. (Wall Street Journal, Aug. 9, 1956.)

Mr. Rand said of the headquarters, "We put this program on a highly organized business basis with this as a central office."

Robert Burkhart described the activities of the UAW boycott representatives as follows:

"We try to leave no stone unturned. We hit State capitals and large cities. We talk at union membership meetings, and district labor council meetings and conventions. We talk with editors, union officials, architects, contractors, builders and anyone else we can corral."

More realistically, their activities have also included:

Inducing Government officials to violate statutes relating to competition on public works.

Organizing picketing of third parties—distributors, plumbing contractors, etc.

Threatening Kohler distributors, plumbing contractors, builders, and others of trouble if they handle or use Kohler material.

Tracing shipments of Kohler products from plant to destination, possibly involving violations of the Interstate Commerce Act.

Inducing and encouraging journeyman plumbers to engage in secondary boycotts.

Spreading maliciously false UAW propaganda about the company and its management.

The mission of Strikers Peter Gasser and Elmer Gross in and around Chicago seems to be to intimidate customers by veiled threats, phone calls at odd hours, posing as representatives of a journeyman plumbers' local union, and similar cloak and dagger activities.

According to the Kohlerian of November 29, 1957, the boycott staff met in Detroit during that week. Those shown in a published picture include Peter Gasser, Rex Mainord, Jerry Harris, Elmer Gross, Fred Ascough, Ovide Garceau, Harold Wilson, John Archambault, Allan Graskamp, Leo Brierather, Don Rand, Ray Majerus, Tom Starling, Robert Treuer, and Cecil Londo.

All of these have been mentioned previously except Allan Graskamp, president of Kohler local 833, and Robert Treuer, UAW publicity man assigned to the Kohler strike.

For convenience, typical boycott activities have been classified and will be discussed under appropriate headings.

Interference with Government

One of the least effective boycott activities, but one of transcending significance, was the union's effort to intimidate public officials by flexing its political muscles.

United States.—In December of 1954, UAW Local 833 deluged the United States Department of Defense with petitions against the awarding of an artillery shell contract to Kohler Co.

Petitions were padded with forged signatures. The company was awarded the contract, which it accepted, although it preferred not to because of the manpower shortage it was then experiencing.

Wisconsin, Circuit Court, Sheboygan County.—One of the first Kohler boycott incidents grew out of an act of union violence, with a Wisconsin circuit court judge as the target.

This was the case of William Vinson, one of the goons which the UAW imported from Detroit to spearhead the strike. Vinson was 27 years old, stood 6 feet 3 inches tall, and weighed 240 pounds. He was convicted and sentenced to 1 to 2 years in the Wisconsin State Penitentiary for criminally assaulting and almost killing Willard VanOuwkerk, a nonstriker, in June 1954.

Mr. VanOuwkerk was a small man, 49 years old, who weighed about 120 pounds.

The Wisconsin Supreme Court summarized the facts of the case as follows:

"We find it undisputed that Vinson * * * overheard part of a conversation between a husband and wife.

"Though the husband, a worker, was about half Vinson's size and twice his age, without justification or excuse * * * Vinson * * * viciously attacked him from the rear, knocked him down and then proceeded to kick his ribs in until, mouthing obscenities, Vinson was forced away by a bystander. The interests of justice do not appear to us to require our intercession in his behalf."

Taking offense at this rather mild sentence, the UAW's Emil Mazey hurried to Sheboygan and announced that the union would boycott three food markets owned by the judge's family.

This brazen assault on a free judiciary outraged the community, and many groups passed resolutions condemning it, including both Protestant and Catholic clergy.

Wisconsin clay boat riot

The notorious clay boat case was another one in which violence and boycott teamed up.

Kohler Co. buys ceramic clays from England by the shipload. Brokers charter the ships and deliver the clay f. o. b. ship, Sheboygan. A local contractor, Buteyn Excavating, unloads the clay and trucks it to Kohler.

On July 5, 1955, the motorship *Fossum* lay alongside in Sheboygan awaiting unloading. UAW radio broadcasts had been urging for days that their people go down to meet the ship, and they did. When they got there, UAW organizers from Detroit led by Donald Rand formed them into a tight picket line across the entrance to the docks.

Mr. Rand boasted, "We are going to pull out all the stops to prevent this clay from being delivered." (The Milwaukee Journal, July 6, 1955.)

Mr. Rand's personal leadership of this riot was recalled in a Sheboygan Press editorial on February 8, 1956, regarding a later union disorder, as follows:

"Mr. Rand will be remembered for his activities in the day of the riot at the harbor front last July. It is a remarkable coincidence that disturbances become intensified during the periods that he is in the city."

When Buteyn's trucks and cranes arrived in the vicinity of the dock early on July 5, the mob wrecked the equipment and beat up the drivers, who were union men.

The since-defeated mayor of Sheboygan, Rudolph Ploetz, who owed his election to the UAW, ordered the police not to enforce the law.

He promised the mob to cooperate with them by keeping all unloading equipment at least three blocks away from the dock.

When it became apparent that the *Fossum* could not be unloaded at Sheboygan, it left for the municipal dock in Milwaukee at the invitation of the Milwaukee port director. Another Kohler clay ship destined for Sheboygan, the motorship *Divina*, was also diverted toward Milwaukee.

Upon the *Fossum's* arrival in Milwaukee on July 7, the UAW picketed the entrances to the port and induced the union representing the city's dock employees to refuse to permit the ship to be unloaded.

Simultaneously, the UAW and other unions publicly threatened that there would be trouble if an attempt were made to unload it. Milwaukee city officials succumbed to these threats, which the UAW then extended to cover other Great Lakes ports.

The *Fossum* and the *Divina* were then moved to Montreal. There, the police prevented the UAW from interfering, and the ships were unloaded by union stevedores. The clay was shipped to Kohler by rail.

The clay brokers filed secondary boycott charges with the National Labor Relations Board. Both the UAW International and Kohler Local 833 consented to the entry of a sweeping order restraining them from instituting a secondary boycott against anyone having dealings with Kohler Co.

The Seventh Circuit Court of Appeals entered an enforcing decree. (*National Labor Relations Board v. Local 833 and International Union, UAW-CIO*, docket No. 11558.)

State of Massachusetts.—A resolution calling for the use of other than Kohler products on State work was slipped through the Massachusetts House of Representatives as the first order of business on February 23, 1956, under suspension of the rules.

This was the day after Washington's Birthday, a legal holiday in Massachusetts, and few representatives were in attendance.

The entire business took only a few minutes, and the minority leader of the house did not even know that such a resolution had been introduced, much less passed, until after it appeared in the newspaper. The resolution was neither messaged to the senate nor presented to the Governor, and so never became effective.

Los Angeles County.—On April 5, 1956, the Los Angeles County Board adopted a resolution against the purchase of any goods or services from firms presently violating Federal labor laws and court orders, the resolution to become effective upon approval by the county counsel.

Kohler Co. was not mentioned in the resolution and did not fall within its terms, but union propaganda left no doubt concerning the target. Since the county counsel never approved the resolution, it did not become effective.

The board rescinded the resolution on July 10, 1957, when the county counsel advised the board, in response to a request for a legal opinion, that the resolution was illegal.

Although the Los Angeles grand jury returned no indictment, it strongly criticized the county board for this action in a resolution issued by the grand jury, on October 15, 1957.

The resolution concluded:

"Now, therefore, be it

Resolved, That in the opinion of the 1957 grand jury the original resolution of the board of supervisors was an unfortunate and improper decision and not in the best interests of the citizens of Los Angeles, whom the board of supervisors represent."

We are aware of no similar action taken by any other county board in the United States. The Milwaukee (Wis.) County Board tabled a companion resolution.

Waterbury, Conn.—On June 4, 1956, the city of Waterbury passed an anti-Kohler resolution. It had been introduced by Alderman Ovide Garceau, UAW-

CIO International representative in charge of the Kohler boycott in that area.

On September 10, 1956, the board of aldermen unanimously rescinded the resolution following a ruling by the corporation counsel that it was contrary to the city charter.

Other Connecticut cities.—Ansonia, Bristol, and New Britain passed similar resolutions, but those in Ansonia and Bristol were later rescinded.

In New Haven an anti-Kohler resolution introduced by Alderman Frank Beach, president of United Rubber Workers Local 338, was tabled by a 20-to-7 vote.

Other resolutions failed in adoption in Bridgeport, Norwalk, Norwich, Shelton, and Torrington.

We do not know of any similar resolutions being considered elsewhere in Connecticut.

We believe the impetus for all of these resolutions in Connecticut, as well as those in Massachusetts, was provided by Mr. Garceau.

Massachusetts cities.—In July and August of 1956, the Boston, Lynn, and Worcester City Councils passed Kohler boycott resolutions. The New Bedford City Council tabled a similar proposal.

These resolutions do not seem to have been effective. For example, Kohler fixtures were installed on the only municipal project in Lynn immediately after the resolution was passed.

Michigan cities.—On August 28, 1956, the City Council of River Rouge adopted a boycott resolution. It was aimed at Kohler Co., although the company was not mentioned by name. According to its terms, the resolution would become effective with respect to a company's product only upon receipt of a petition and specific action by the city council.

The City Council of Lincoln Park adopted an almost identical resolution on September 4, 1956. Later, the city council was petitioned to apply the sanctions of the resolution to Kohler Co., but the petition was tabled upon advice of the city attorney.

In general we are unaware of any similar resolutions passed by any other municipal bodies in the entire country.

The UAW and local unions have applied political pressure to a number of other governing bodies, including school boards, with respect to specific projects. In a few cases they have been successful. In most cases officials have been faithful to their public trust.

Neutrality is the only tenable position for public officials to take regarding a labor dispute. True neutrality consists of buying just what one would buy anyway without regard to a strike, not buying or refusing to buy a product simply because of it.

AMBULATORY PICKETING

In a number of instances, UAW pickets followed Kohler Co. trucks and picketed the customers' places of business. In most cases the picketing was illegal. This was particularly true where the picketing continued after the Kohler truck had left. Some examples of this type of boycott follow.

Milwaukee, Wis.

In the middle of May 1955, UAW pickets commenced following Kohler trucks to Milwaukee.

On May 20 four large pickets, including strikers Ethan Berg, Gottlieb Schmidt, and Maurice Gahagan, followed Kohler Co. driver Clifford Hanson's truck to United Plumbing & Heating Supply Co., a Kohler distributor in Milwaukee.

The pickets took pictures, carried signs, and called the drive scurrilous names, such as "dirty slimy scab." Fifteen minutes later policemen arrived and the pickets stopped hollering. The truck was unloaded without further incident.

The truck next went to Cordes Supply Co. where three policemen were waiting. The pickets arrived with the truck, and both policemen and pickets stayed until the truck had been unloaded.

On the way back to Kohler the truck stopped at Unique Polishing Co., Saukville, which had been skipped on the way down in the morning because of the presence of Kohler pickets.

The truck driver was informed that the pickets had remained there from 9 in the morning until nearly 4 p. m., half an hour before the truck returned.

On May 24, Kohler driver Edmund Kleinow delivered some material to Reupert Plumbing & Appliance Co., a plumbing contractor in Milwaukee. Four pickets got out of a car which had followed the truck all the way to Milwaukee. One

of them was Leon Losey, a striker. The pickets carried signs. The contractor was afraid to accept the material with the pickets present, and it was agreed that it would be taken to B. Hoffman Manufacturing Co., where Reupert would pick up the truck later.

By the time the truck arrived at Hoffman's nine pickets had gathered. They walked back and forth on the sidewalk and tried to block the truck by walking in front of it. While the truck was being unloaded the pickets were calling the driver names.

Police were there but did nothing about it. One of the pickets called to one of Hoffman's warehousemen, "We'll call the president of your union and he'll stop you from unloading."

On May 25 pickets followed Edmund Kleinow's truck to F. R. Dengel Co. The loading dock is in an alley. Leon Losey, Frank Owens and two other pickets walked back and forth across the end of the alley carrying signs. They called the driver abusive names and yelled to people driving by in cars. A little later the pickets were joined by Raymond Majerus, UAW international representative. He stayed for about an hour and loudly led the yelling. When Majerus walked up the alley to the unloading dock, a policeman told him "to get out where you belong."

Mr. E. F. Maurer, Dengel's manager, started taking some pictures, but picket Frank Owen threatened to take his camera away.

When another truck backed up to the Dengel loading dock, one of the pickets asked the driver, "You aren't going to buy some of that scab ware, are you?"

When the Kohler truck left Dengel's the picket car followed the truck to a lunchroom and then back toward Kohler.

On May 27, following complaints by Kohler truckdrivers, G. A. Desmond of the legal department took Paul Jacobi and L. E. O'Neill, photographers, to the F. R. Dengel Co. to watch the unloading of a Kohler truck.

When the truck arrived it backed up into the loading dock with the cab extending out into the alley.

Leon Losey, Frank Owen, and two other pickets commenced picketing the cab of the truck in a semicircle. Unlike other days, they did not picket any other part of the Dengel premises. Also unlike other days, the pickets did not say anything.

At 9:45 a. m., however, Ray Majerus joined the pickets. He walked over to Paul Jacobi and said, "Don't go taking any pictures of me or you won't have that camera any more. If you take my picture you won't appear in any court."

This was accompanied by menacing gestures. When Mr. O'Neil tried to take a picture Majerus ran over and grabbed at the camera. Two police officers who were present grabbed Majerus and pulled him away. They told him to go over near the other pickets. After some argument with the police as to O'Neill's right to take pictures, Majerus left.

During the morning, Leon Losey talked to drivers of a J. W. Cartage Co. truck, a Steffke Freight Co. truck, a Ziffrin truck and a Dengel truck. He talked to all of them about "scabs" and "scab ware." During the unloading, Mr. Roy C. Lane, president of Teamsters Local 200, stood near the pickets and gestured local 200 drivers away.

On May 31, Messrs. Desmond, O'Neill, and Jacobi visited the Neis Co., West Allis, a plumbing and heating contractor which is a Dengel customer. There had been complaints of picketing of the Neis property while Kohler trucks were making direct deliveries for Dengel.

This morning the Kohler truck was followed from Kohler by a Ford registered in the name of Frank Schulze, of Sheboygan, a Kohler striker. The truck backed into the loading dock and International Representative Donald Rand led a group of seven pickets.

Other pickets recognized were Frederick Matthias, Gottlieb Schmidt, Frank Schulze, Ethan Berg, and Frederick Byrum. The pickets carried signs reading, "Don't Buy Kohler Ware Made by Scabs" and "Kohler Plumbing Ware is Made by Strikebreakers." Two policemen were stationed at the loading dock.

Mr. Rand asked Mr. Neis, the proprietor, to stop handling Kohler products and to refuse to receive this shipment. Mr. Neis replied that if that was all Mr. Rand wanted, he could be excused.

Rand then took four pickets from the group at the loading dock and had them picket the front of the Neis Co. store on West National Avenue, around the corner and about a block away from the truck.

Frederick Byrum was one of these pickets. Again the pickets indulged in name calling, using terms as "four-eyed monster," "God damn parasite," "son-of-a-bitch," etc.

Both groups of pickets handed out circulars entitled "Don't Buy Kohler Ware—It's made by Strikebreakers." Comments in a similar vein were made to people walking by.

When the Kohler truck left, Mr. Rand told the pickets to continue picketing. Both groups of pickets remained. Nearly an hour after the Kohler truck had gone, another truckdriver refused to unload because the pickets were still there.

This picketing continued almost daily for several months. The actions were much the same, with occasional changes in the cast of characters.

As time went on the pickets became more bold, trespassing on the customers' property to peer into the truck or into the warehouse in order to identify products being delivered and shipping data on the crates. They made detailed notes.

Oshkosh, Wis.

On May 23, 1955, four pickets, including Strikers Gottlieb Schmidt and Rudy Gunderson, followed a Kohler truck, first to Plumbers Supply Co., Fond du Lac, and then to the George W. White Co., Inc., of Oshkosh, both Kohler distributors.

The pickets called the drivers names such as "traitor", "Brown-nose scab", etc. They carried signs and Gunderson took pictures.

The truck was unloaded in White's yard after the police chief and a plain-clothesman had talked to the pickets and the pickets had left.

On Tuesday, June 7, there was a repetition of the incident, with an Oshkosh CIO representative joining the four pickets from Sheboygan. This time the truck was driven into the warehouse and the door closed, but the pickets still carried placards in front of the distributors' place of business.

Sheboygan, Wis.

On August 2, 1955, three UAW pickets, one of whom was Frank Owen and another was Maurice Gahagan, followed a Kohler truck to the South Side Hardware Co. in Sheboygan. The pickets carried signs and called the driver "scab," "sowbelly" and other names similar to those criticized recently by the United States Supreme Court in *Youngdahl v. Rainfair, Inc.* (78 S. Ct. 206). One of the pickets yelled, "We are not going to let them unload." The proprietor called the police, and upon the arrival of two uniformed officers the unloading proceeded without further interference.

The South Side Hardware Co. is a plumbing contractor and a customer of a Kohler distributor. Thus the picketed business was twice removed from Kohler Co., the primary employer.

Sioux Falls, S. Dak.

On July 26, 1955, Decker Truck Lines delivered a truckload of Kohler products to A. Y. McDonald Manufacturing Co., Kohler distributor in Sioux Falls. Three unidentified Kohler pickets in a 1947 or 1948 light colored Mercury convertible followed the truck all the way from Kohler to Sioux Falls.

Three unidentified Kohler pickets in a 1947 or 1958 light colored Mercury convertible followed the truck all the way from Kohler to Sioux Falls. The pickets walked for about half an hour and passed out yellow handbills while the truck was being unloaded. After about half an hour A. Y. McDonald's manager spoke to the pickets and they left. The truck was unloaded.

OTHER PICKETING OF THIRD PARTIES BY THE UNITED AUTO WORKERS

In addition to so-called ambulatory picketing of Kohler distributors and their customers, previously discussed, the United Auto Workers engaged in or directed other illegal picketing of third parties.

Hartshorn Bros., Bellflower, Calif.

Hartshorn Bros. are plumbing contractors. None of their employees belonged to the United Auto Workers, nor did they have any labor dispute with that organization.

In the fall of 1956, a person whose name is unknown but who identified himself as a UAW agent from the East, asked the Hortsorns to go along with the boycott of Kohler products. They refused.

Early in the morning of March 7, 1957, two women began picketing. Later they were joined by a man. The pickets were Mr. and Mrs. Macon Stevens

and their daughter. The next day Mrs. Stevens and a Mr. Maddox picketed in the same manner. Previously Mrs. Stevens had regularly engaged in picketing the Kohler Co. Los Angeles branch office.

The pickets walked in a line from a point in front of the office building to a point in front of the yard and back, crossing the alley used by truck drivers and other workers. They carried "Boycott Kohler" signs. Boycott posters were also hung on a pickup truck which the pickets parked in front of the Hartshorn's building. The picketing continued for several days.

Hartshorn Bros. filed a charge with the Los Angeles regional office of the National Labor Relations Board.

The case did not proceed to a hearing because the UAW International signed a settlement agreement requiring them not to induce or encourage the employees of Hartshorn Bros. to engage in a strike or a concerted refusal to handle or otherwise work on goods with an object of forcing or requiring Hartshorn Bros. to cease doing business with Kohler Co.

(International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-AFL-CIO) (Hartshorn Bros.) Case No. 21-CC-265).

The Link Co., Jackson, Mich.

On December 26, 1956, four men visited Mr. Charles Link in his office. One was John Archambault, of Detroit, UAW-CIO international representative in charge of the Kohler boycott in that area.

Another was Leo Brannick, of Jackson, business agent for journeyman plumbers local 313. The visitors tried to persuade Mr. Link that his company, a Kohler distributor, should not handle Kohler products.

Threats were made.

The Link Co.'s employees were not represented by the UAW, nor did the company have any labor dispute.

A day or two later Mr. Paul E. Bengel, a plumbing contractor, who is a customer of the Link Co., was invited to the CIO council hall in Jackson.

Messrs. Archambault, Brannick, and other union men were there. Mr. Archambault said to Mr. Bengel, "If Bengel sets Kohler fixtures we will have to picket Bengel's place of business."

Mr. Bengel replied that he did not want any trouble and he would see what could be done. Another union man present, John Dwyer, told Mr. Bengel after the meeting that he "didn't want any trouble and didn't want anybody to get hurt."

On January 10, 1957, Mr. Bengel was told to come to the CIO hall at once. He found John Archambault, John Dwyer, Leo Brannick, and Victor Brannick waiting for him.

Mr. Archambault suggested a compromise to the effect that they would let Mr. Bengel set Kohler closets and slop sinks on his present project if Mr. Bengel would use another make of lavatories.

Mr. Archambault said, "You are going to hear about this Link Co. deal later on because we talked to Chuck Link and he was quite arrogant."

On January 11 two pickets, named Vincent Brannick, president of the Jackson County CIO Council, and Carl Acker, began picketing the Link Co. They were joined by John Archambault on January 16 and by Ercel Davis on January 18.

On January 15, at a meeting of journeymen plumbers local 313, the secretary read off a list of five plumbing contractors who had crossed the CIO picket line at the Link Co. The president of the local took members to task for crossing the picket line at the Link Co.

The Link Co. petitioned the circuit court for the county of Jackson for an injunction, with the Jackson County CIO Council, Vincent Brannick, Carl A. Acker, Ercel Davis, John Doe, and Mary Roe and others as defendants. A temporary injunction was issued restraining the defendants from picketing and threatening the plaintiff or interfering with its business.

Because of doubt as to the court's jurisdiction, a secondary boycott charge was filed with the NLRB regional office in Detroit against the same defendants.

This case did not proceed to a hearing as the defendants executed a settlement agreement prohibiting them from attempting to force the Link Co. or any other employer to cease doing business with Kohler Co. (Jackson County CIO Industrial Council of Jackson and Vincent J. Brannick, Carl A. Acker, and Ercel Davis, its agents (the Link Co.) case No. 7-CC-58).

The United Auto Workers International was not made a defendant in these proceedings because the identification of John Archambault was not confirmed until later. However, the defendants were represented by Harold Cranefield and Kurt Hanslowe, legal counsel of the UAW-CIO international.

Booth & Thomas, Inc., Springfield, Ill.

Booth & Thomas are distributors of Kohler products.

On September 10, 1956, Mr. John Collins, of Chicago, UAW international representative, and Mr. Francis Smith, president of UAW Local 1027, Springfield, visited Booth & Thomas.

Mr. Collins handed Mr. Thomas a typewritten form letter urging Kohler Co. to settle with the UAW. Mr. Thomas was supposed to copy this on his company's letterhead and send it to Kohler Co., mailing copies to Mr. Collins in Chicago and local 833 in Sheboygan. Mr. Collins said that they were trying to get a large number of Kohler customers to do the same thing, which would force Kohler Co. to give in.

Mr. Collins told Mr. Thomas that if he did not write the letter as directed Booth & Thomas would "probably be picketed."

On September 14 Mr. Collins telephoned to inquire whether Mr. Thomas had sent the letter, saying that he wanted to make a report to the local 1027 membership. Mr. Thomas told him that he was not sending the letter.

Early in the morning of September 17, Mr. Collins headed a group of pickets in front of the Booth & Thomas place of business. Many of the pickets were recognized as UAW Local 1027 members from the Allis-Chalmers night shift. They carried "Don't Buy Kohler" signs.

No legal action was instituted, as the picketing was soon discontinued.

Mr. Thomas reported that during the picketing his company's business practically ceased. No trucks or union plumbers would cross the picket line. The effect of this lingered for some time after the picketing stopped.

St. Luke's Hospital, Milwaukee, Wis.

While this was ostensibly a case of spontaneous "citizen picketing" by volunteers, Raymond Majerus, UAW international representative, was active in organizing it.

The trustees of St. Luke's Hospital requested Kohler plumbing fixtures, and the architects, Grasshold & Johnson, of Milwaukee, specified them. The Knab Co., plumbing contractors, were prepared to install them.

In September 1956, Anthony J. King, business manager of Plumbers Local 75, Milwaukee, told the Knab Co. superintendent that if Kohler material were used on the St. Luke's Hospital job he (King) would prevent it "even if it meant breaking the Knab Co."

On October 12, Knab telegraphed King for journeyman plumbers for the St. Luke's Hospital job. King replied that none were available to set Kohler fixtures.

On October 15 so-called citizen pickets, claiming to have no connection with any unions, appeared at the job site. Building-trades men refused to cross the line and work was halted. The picketing continued daily, with the pickets carrying "Kohler Boycott" signs.

On October 19 a meeting of the "citizen pickets" was held at Club Orlo, in Milwaukee, with Raymond Majerus, UAW international representative, playing a prominent part.

On October 23, the Knab Co. ascertained that its own journeymen plumbers were willing to return to the hospital job provided there were no pickets and no restraint by their own union.

On October 31, the hospital, relying on the citizen pickets' protestations that they represented no unions, sued 17 of them individually for conspiring to interfere with a lawful business, a violation of the Wisconsin statutes. The action was for damages and an injunction.

On November 1, Robert Johnson, of Siesel Construction Co., general contractor for the project, arranged an armistice with the Milwaukee Building and Construction Trades Council to permit emergency work for 20 days in order to prevent weather damage.

The following day the pickets sat in their cars instead of picketing, and all building-trades men except plumbers resumed work. On November 5 the plumbers were still not working. Mr. King told Mr. Knab that he had looked over the job and could find no plumbing work which needed doing. However, on November 7, one of Knab's journeyman plumbers and an apprentice returned to work, saying that Mr. King had told them they could not refuse to do emergency work.

From November 8 to 13 individual citizen pickets were examined adversely under the discovery statute by counsel for the hospital.

The pickets refused to testify on the ground that their testimony might tend to incriminate them. The matter was referred to the circuit court for a contempt citation.

The 20-day armistice expired with no further developments. Picketing was not resumed, Kohler ware was installed, and the hospital's case against the citizen pickets remains in status quo.

INTIMIDATION OF CUSTOMERS

Any boycott visit by a union representative to a distributor, plumbing contractor, journeyman plumber, architect, builder or owner, however devoid of open threats, has an intimidating effect. Most people resent the implications and are strong enough to resist.

Others are influenced.

In some cases union representatives have made direct threats to Kohler customers.

A few examples follow:

Atlanta Ga.

On May 3, 1957, Thomas J. Starling, Atlanta, UAW international representative, called on a Kohler distributor and threatened to put them out of business if they continued handling Kohler products. He later denied having made the threat, saying that he merely predicted that there would be the natural consequence of their trying to sell Kohler products.

The Atlanta situation will be discussed later in another connection.

Chicago, Ill.

Peter Gasser, a Kohler striker now employed by the United Auto Workers as a boycott promoter, operates in the Chicago area. He is sometimes accompanied by Elmer Gross, another striker.

During the spring of 1957, Gasser repeatedly phoned Albert Bower, plumbing contractor, and his wife, in a war of nerves, using language which Mrs. Bower described as "very crude."

On March 28, 1957, Gasser called on John Fairbairn, mechanical engineer, Chicago, and said that his firm's projects (principally schools) might encounter construction difficulties if they continued specifying and approving Kohler products. Mr. Fairbairn told Gasser he intended to continue to specify and approve Kohler fixtures.

In the spring of 1957, Gasser phoned Robert Richey, Chicago architect, that use of Kohler material might slow up completion of the Illinois Bell Telephone building at Barrington, Ill. Mr. Richey resented this interference and heated discussion followed.

Gasser also phoned H. R. Stewart, of Gary, Ill., the plumbing contractor on this job, to the same effect. No trouble ensued.

In the spring of 1957, Gasser phoned the office of Shukis Builders, Inc. five times, and on at least one occasion threatened to break windows if they continued to install Kohler fixtures. On May 3 Mr. Gasser phoned Mr. Shukis personally and asked him whether he were Jewish. Mr. Shukis replied that he was Lithuanian. In the ensuing discussion Mr. Gasser became agitated and said, "If I can't talk in a reasonable manner I will take other means." Mr. Shukis was not intimidated.

About November 1, 1957, Mr. Gasser and another man visited the Town House job in Wilmette, Ill., on which the plumbing contractor was William B. Park, of Northbrook, Ill. Gasser told the journeyman plumbers, "We are from the union and wish to visit with you," implying that they were from Plumbers' Local 130. One of the journeymen replied, "Well you are not from our union. I have not missed a meeting in years and I never saw either of you before." Gasser then admitted that they were not really from Local 130 but were UAW representatives assigned to the Kohler boycott. He asked the journeymen not to install Kohler fixtures. Gasser threatened to report them to the business agent of their local if they did. The journeyman plumbers stood pat, but told Gasser that if their own business agent talked to them they would listen. The job was completed with Kohler fixtures.

About September 1, 1957, Mr. Gasser repeatedly annoyed Mr. Le. E. Cooper, a Chicago home builder, with implied threats over the telephone. Mr. Gasser said that a union representative would visit the job sites to talk to the building tradesmen. Mr. Cooper resented the calls.

Other phone calls and visits by Peter Gasser have been reported.

Dayton, Ohio

In June of 1956 John Blair, Troy, Ohio, UAW international representative, phoned Mr. Warner of W. H. Kiefaber Co., Dayton, Kohler distributors, that he would do anything in his power to prevent the installation of Kohler products.

Detroit, Mich.

On February 22, 1956, John Archambault, UAW international representative, called on Linwood Pipe & Supply Co., a Kohler distributor in Detroit, and threatened them with an intensified boycott. Mr. Archambault said that every truckload shipment was being traced from Kohler to destination, builders would be requested to switch from Kohler fixtures to other makes, and union representatives would pass out boycott leaflets at all projects where Kohler fixtures were due to be installed.

Linwood Pipe & Supply Co. was contacted again on July 27, 1956, when Mr. Archambault was accompanied by 6 union representatives, including 3 members of the State legislature. On June 25, 1957, Mr. Archambault called on Mr. Margolin, of Linwood, regarding a truckload shipment which had arrived on June 12. Mr. Archambault had a complete list of Kohler material included in the truckload. Mr. Archambault reminded Mr. Margolin that this was the third call on his company and the union was now going to get tough.

On February 22, 1956, Mr. Archambault also visited another Kohler distributor in Detroit, Warren Plumbing Supply Co. In addition to the statements reported by Linwood, Mr. Archambault told Mr. Warren that money was no object. He said that every plumbing contractor would be contacted, and that if the contractors proved obstinate they would go to the owners. Every architect would be asked to disapprove Kohler fixtures. Mr. Archambault again claimed that the union knew the manner in which Kohler products were shipped, the names of the carriers, the individuals receiving the material, and the time they received it. He asked Mr. Warren to switch to another line.

During the 2 days following Mr. Archambault's visit, at least a dozen of Mr. Warren's plumbing contractor customers phoned him that they were fearful about using Kohler fixtures.

In the same month Mr. Archambault called on Kenneth Anderson, of Detroit, a Kohler distributor, and used the same approach. When Mr. Anderson asked him to put his remarks in writing, Mr. Archambault refused.

On February 7, 1957, Mr. Emil Mazey, UAW international secretary-treasurer, phoned Michigan Generator Service, Kohler electric plant distributor in Detroit, and arranged an appointment for one of his assistants to meet Mr. Montgomery, a partner. Donald Rand, assistant to Emil Mazey, visited Mr. Montgomery and complained about his Kohler exhibit at the Detroit boat show. He requested Mr. Montgomery to write Kohler Co. urging settlement of the strike and stating that pressure was being put upon Michigan Generator Service to discontinue handling Kohler products. Mr. Rand reminded Mr. Montgomery that they could picket the display at the boat show. Mr. Rand arranged to have Mr. Archambault meet Mr. Montgomery at the boat show that evening, but Mr. Archambault did not show up. There were no further developments.

Memphis, Tenn.

On May 29, 1956, Cecil Londo, UAW international representative, called on Mr. John Fisher, of Fisher Plumbing & Heating Co., Memphis, plumbing contractors for a new Methodist Hospital addition in Memphis. Mr. Londo asked Mr. Fisher whether he was going to use Kohler material. Mr. Fisher told him that this came under the heading of his own personal business. Mr. Londo predicted that "journeymen will not set the Kohler fixtures" and said that "a picket line would be set up." In the ensuing conversation Mr. Londo admitted that the picket line could probably be eliminated by Mr. Fisher at the expense of time and court action. No trouble developed and Kohler fixtures were installed.

Phoenix, Ariz.

In June of 1956, Mr. Nicholas C. Dragan, UAW representative in Phoenix, called on Phoenix Pipe & Supply Co., a Kohler distributor, with representatives of two other unions. He requested them to discontinue buying Kohler products. The callers stated that they were going to make every possible effort to stop the sale of Kohler ware in Arizona. They said they were tracing each car leaving the Kohler plant to determine its destination, and they would call on all architects and builders in addition to holding union meetings.

The Phoenix situation will be discussed later.

Port Washington, Wis.

In May of 1955 Emil Mazey, UAW international secretary-treasurer, and Robert Burkart, UAW international representative, visited a school job in Port Washington on which Rohde Bros., of Plymouth, Wis., were the plumbing contractors. They told Rohde's foreman that he had better not install Kohler fixtures. When the foreman told them that he was not under their jurisdiction and that he intended to install the fixtures, they replied that they could not order him not to.

In October 1955 unknown vandals caused extensive water damage to the school gymnasium. Union spokesmen publicly denied responsibility.

JOURNEYMAN PLUMBERS

Journeyman plumbers are the building tradesmen who install plumbing systems. They serve a long apprenticeship and are usually licensed by States or municipalities. They are customarily employed by plumbing contractors who hold master plumbers' licenses.

As might be expected, the United Auto Workers have tried to induce or encourage journeyman plumbers to refuse to handle Kohler products. In an industry whose products require installation, this has ominous implications.

We have no evidence that the Journeyman Plumbers and Steamfitters International Union has instituted any secondary boycott of Kohler products.

In 1954, according to the newspapers, the UAW requested the late Martin Durkin, then president of the Journeyman Plumbers and Steamfitters International, to pull the UAW's chestnuts out of the fire. Mr. Durkin was reported to have turned them down, saying, "We never do that," meaning refusing to install nonunion articles.

Following the AFL-CIO merger convention in New York City early in December of 1955, Mr. Peter T. Schoemann, the new general president of the journeyman plumbers and steamfitters, gave the UAW a letter which the latter used as an introduction to a propaganda booklet. While urging support of the strikers, Mr. Schoemann incorporated this paragraph in his letter:

"I caution you, however, that during the course of your employment you must handle and install all Kohler products. If you should refuse to handle and install Kohler products on the job, such actions would be a secondary boycott in violation of the Taft-Hartley Act and other State laws. Likewise, you cannot and must not request employees of other employers not to handle and install Kohler products during the course of their employment."

The action of the Journeyman Plumbers and Steamfitters International Quintennial Convention in Kansas City, Mo., in August of 1956 was consistent with this directive, according to an article in *Business Week* of August 25, 1956.

Despite the presence of a big UAW delegation which attempted to blitz the convention with anti-Kohler displays and banners, the convention turned down two tough resolutions calling upon plumbers to refuse to install Kohler plumbing fixtures. The resolutions committee chairman argued against the proposals and called attention to the prohibitions of the Taft-Hartley Act. The convention did adopt a much milder resolution sympathizing with the strikers.

The illegality of a secondary boycott was recognized by UAW Local 833 in the *Reporter* and *Kohlerian* of April 5, 1957. Under the headline "Can Plumbers Boycott?" the local explained to its members that—

"If the plumbers union were to refuse to install it would be a violation of the Taft-Hartley Act's secondary boycott provisions.

"A plumber as an individual can refuse to install Kohler. If he gets fired for it there is nothing his union can do for him."

This is good advice, but this further point should be made with respect to individual refusals to install:

Under the doctrine of the *Genuine Parts Case* (119 N. L. R. B. No. 53), if a union advises its members of their rights to refuse to handle products "as individuals," in a context where such advice constitutes inducing and encouraging them to take such "individual" action, it is in violation of section 8 (b) (4) of the Taft-Hartley Act.

In other words, this would be a "concerted individual refusal," akin to the concept of "conscious parallelism" which has found a place in antitrust law.

The *Booker Lumber Co. Case* (117 N. L. R. B. No. 210) throws further light on "concerted individual refusals" to handle material.

Despite this realistic attitude on the part of the plumbers international, and even by the striking UAW local itself, few plumbers and steamfitters locals have taken secondary boycott action against Kohler Co.

Apparently the boycott receives its vertical impetus within the United Auto Workers' organization and spreads horizontally on the local level. A few examples follow.

Atlanta, Ga.: It was mentioned earlier that Thomas J. Starling, one of the UAW international representatives in charge of the boycott, lives in Atlanta. This may explain why Journeyman Plumbers Local 72 of Atlanta became interested in the boycott.

In August of 1955, Mr. V. B. Harper, then a business agent for the local, served notice on plumbing contractors that they would be given 90 days within which to dispose of non-union-made materials. Thereafter, members of the local would refuse to install them. He expressly mentioned Kohler.

When Mr. C. E. Wilkinson, Kohler Co. branch manager, called on Mr. Harper, the latter said that this action had been voted on at a local 72 meeting some time before. Mr. E. H. Fleming, then president of the local and now a business agent, told Mr. Wilkinson the same thing.

Mr. Fleming advised that the only way the situation could be corrected would be for the Kohler Co. to send a communication to the union in writing which could be read at a meeting and which might persuade the members to revoke their resolution. Mr. Fleming was not optimistic.

On September 11, 1955, Mr. Harper admitted to a committee of plumbing contractors that local 72 had taken such action. He said the question had been decided on the floor in a union meeting and he personally could do nothing about it.

The situation then seemed to clear up for a while, but late in 1956 local 72 business agents were suggesting to plumbing contractors that they might encounter costly difficulties if they used Kohler fixtures. These comments were made in the context of the contractors' having to secure journeyman plumbers through the local 72 hiring hall. This afforded the local an ominous control over the fortunes of plumbing contractors. Many contractors became afraid to base their bids on Kohler quotations.

The situation came to a head on a Southern Railway job in Atlanta, when several new journeyman plumbers which local 72 had sent to Sasser & Co., the plumbing contractor, refused to install Kohler fixtures. A local 72 business agent permitted Sasser & Co. to install Kohler fixtures on this job on condition that he would not use them thereafter.

For an appreciable time after this, only a few Atlanta plumbing contractors employing union journeymen continued willing to use Kohler products.

On July 23, 1957, Atlas Supply Co. (Kohler distributor) delivered three fixtures to Sasser & Co. on an Owens-Illinois Glass Co. job in Atlanta. Arthur H. Moore, a local 72 steward for another contractor on the job, instructed the driver to take the fixtures back to Atlas. On July 24 Mr. Moore was sent a registered letter warning him that any repetition would render him personally financially responsible for damages.

It has been reported that this letter and other indications that litigation was shaping up were the subject of a long meeting at local 72 headquarters, at which it was decided to keep hands off the Kohler boycott. Whether this is true or not, a steadily increasing number of Atlanta contractors are using Kohler products and are experiencing no difficulties.

Detroit, Mich.: Plumbers local 98 has jurisdiction around Detroit. It has considerable power over plumbing contractors through the operation of a hiring hall through which plumbing contractors obtain their journeymen plumbers. While there is no consistent pattern of local 98's boycotting Kohler, some activity has been reported from time to time.

The impetus for this activity in Detroit clearly stems from the United Auto Workers. This liaison is difficult to understand, for an Associated Press dispatch of February 6, 1956, reported UAW building craftsmen crossing the picket lines of the AFL building trades unions to do the latter's work at the Packard-Studebaker plant in Detroit.

During the autumn of 1955 there had been rumors that local 98 would cease installing Kohler fixtures after January 1, 1956, and had appointed a study committee to find some "legal" method of doing this.

On January 17, 1956, John Archambault, UAW international representative, addressed the Detroit Building Trades Council and urged them to boycott Kohler (Detroit Building Tradesman, January 20, 1956).

On February 7, 1956, the day after the Associated Press dispatch referring to the Packard-Studebaker picketing, Emil Mazey addressed Plumbers Local 98

for more than an hour. While he did not openly state that they should refuse to install Kohler fixtures, that was implicit in everything he said.

On February 10, 1956, a local 98 member who was foreman for Mechanical Heat & Cold, plumbing contractors on the Red Run gold course job, told his employer that he would not allow his men to set Kohler fixtures because the local union was requesting journeymen plumbers not to handle them.

When the plumbing contractor phoned the local, the man at union headquarters would not admit this but said, "You are taking a big chance in using Kohler ware as they could very easily be broken on the job by accident."

On February 22, 1956, Donald Rand, UAW international representative, wrote a letter to all journeyman plumbers on Plumbers Local 98 letterhead. While the letter did not specifically advocating refusing to install Kohler fixtures, it was calculated to have that effect. It enclosed a form entitled "Kohler Boycott Survey" on which journeyman plumbers were expected to report all jobs using Kohler fixtures, including the names of the contractor, the architect, and the owner.

In February 1956, W. J. Rewoldt Co., Detroit, had the plumbing contracts on the Mount Clemens Hospital, Mount Clemens, Mich., the Amelia Earhart High School, Detroit, and the Cross manufacturing plant, Detroit.

Journeyman plumbers refused to accept a truckload of Kohler fixtures which was delivered to the Mount Clemens Hospital by the Nelson Co., of Royal Oak. The journeymen were asked to have their business agent phone the plumbing contractor.

The business agent did so and stated that Kohler fixtures would not be installed by journeyman plumbers in Detroit. He was told that the Mount Clemens job was already roughed-in for Kohler fixtures, and walls had been tiled and plastered.

The business agent still insisted that Kohler fixtures could not go in, but after some discussion he agreed to let the contractor install Kohler fixtures in the hospital if he would not use them in the Amelia Earhart School and the Cross manufacturing plant.

The net result was that Kohler fixtures were installed in Mount Clemens Hospital and the Amelia Earhart School, but not in the Cross manufacturing plant.

By May of 1956 a number of plumbing contractors doing large institutional work in the Detroit area were encountering refusals by their journeymen to handle Kohler fixtures, but they were reluctant either to fight local 98 themselves or even to furnish evidence. In other types of work the boycott was ineffective.

Later on the situation steadily improved.

Dover, Del.

Plumbers Local 782, Dover, had jurisdiction over a 100-bed hospital job at Dover Air Force Base. It operates a hiring hall.

In July of 1956 journeymen plumbers employed by Frederick Raff Co., a Hartford, Conn., plumbing contractors for the hospital job, refused to unload about 15 Kohler drinking fountains from the delivery trucks.

When Mr. Raff phoned the president of local 782 he was informed that their journeymen would not install Kohler fixtures under any circumstances. When Mr. Raff threatened to use nonunion journeymen the local president said, "We would strike the job."

In August 1956, the journeyman plumbers refused to install Kohler fixtures and struck the job for 5 days. When Raff's foreman, Mr. Blair, complained to B. F. Kelley, of Seaford, Del., business agent of local 782, he said that there was nothing he could do. He advised Mr. Blair that Raff's only alternative was to fire the men, in which case the local would try to send others.

On July 31, Mr. Kelley met Raff's representatives at the job, including W. F. Fitzgerald, Blair's successor as foreman. It was agreed to install the Kohler drinking fountains since the roughing-in had been completed.

When W. J. Donnelly, Kohler Co. branch manager in Philadelphia, called on Mr. Kelley, the latter denied that he had instructed his men not to install Kohler ware, but he said that if he were working as a journeyman he would refuse to install it.

On January 10, 1957, additional Kohler fixtures were delivered to the job without incident. Mr. Kelley permitted the installation of these fixtures because roughing-in had previously been completed. He would make no commitment for the balance of the order.

On July 15, 1957, Mr. Donnelly again visited the job site and learned that fixtures of another make were being installed on the balance of the job. A young man in Raff's employ, who declined to give his name, said that a conference had been held with local 782 at which Mr. Kelley had served notice that no more Kohler ware was to be used. Mr. Kelley said that he had compared Kohler roughing-in with that of another make and had found too little difference to matter.

Kohler material was used on only about one-third of the job.

Kansas City, Mo.

The Kansas City situation parallels the one in Atlanta to the extent that the United Auto Workers have strong local organizations there, and Journeyman Plumbers Local 8 controls the assignment of journeyman plumbers to plumbing contractors through the operation of a hiring hall. Employers subject to the union contract call the hiring hall for men.

Early in 1956, Mr. John S. Gorman, business agent for plumbers local 8, began calling on the smaller and newer plumbing contractors in and around Kansas City, many of whom were still card-carrying members of the union. It has been reported that over 100 out of approximately 160 plumbing contractors in Kansas City still hold cards in the journeyman plumbers local and are subject to its discipline.

Late in January 1956, Mr. Paul Lovell, owner of Midcontinent Plumbing Supply Co., received the first truckload of Kohler material for a 300-unit housing project at Hickman Mills, Mo. Mr. Lovell soon received a phone call from John Gorman advising him not to install Kohler fixtures, and informing him that if he did so he might have difficulty obtaining journeymen a little later when the project was fully underway. Mr. Gorman refused to write a letter to Mr. Lovell or to confer with him. Mr. Lovell returned the truckload to the Kohler distributor, A. Y. McDonald Manufacturing Co., of Kansas City, and canceled the balance of the order.

On February 24, 1956, a representative of Mr. Gorman's visited a job on which Brookside Plumbing & Heating Co., Charles F. Stevenson, owner, was going to use Kohler material purchased from Grinnell Co., Kansas City.

Brookside's foreman, a union journeyman plumber, was shown an unsigned letter on plain stationery instructing him and his plumbers not to install Kohler products. As a result, Brookside gave Grinnell a cancellation of the order for Kohler fixtures. We understand that Brookside has since gone out of business.

In February of 1956 A. Y. McDonald Manufacturing Co., Kohler distributor, invited many of the larger plumbing contractors to meet Mr. L. P. Chase, of Kohler Co., at a luncheon. The night before the luncheon, John Gorman is reported to have called a number of the contractors and told them that the union would have the luncheon spotted and would know which ones attended.

In December 1956, Fairway Plumbing & Heating Co., E. L. French, owner, ordered 500 sets of Kohler fixtures from A. Y. McDonald Manufacturing Co., Kansas City, to be used on small homes for three different builders.

On December 20, Mr. Gorman told Mr. French that while he was entitled to purchase any fixtures he chose, local 8 journeymen had a constitutional right not to install them, which he was confident would be their position. He made it clear to Mr. French that it would not be possible to obtain journeymen from local 8 who would install Kohler fixtures. While Mr. French was not convinced that his own men would refuse to install, he became apprehensive and canceled the order shortly after giving shipping instructions for the first truckload.

In October 1957, Mr. Harold Miles, of H. E. Miles Co., Inc., Bolivar, Mo., plumbing contractor for the Fort Leavenworth Junior High School, phoned Mr. Gorman for clearance on using Kohler fixtures. Mr. Miles had a quotation from A. Y. McDonald Manufacturing Co., Joplin, Mo.

In Mr. Gorman's absence, Mr. Miles talked to an unknown person in the union office, who said that Kohler fixtures were listed as not to be used by union members throughout the country, and that local 8 did not allow Kohler fixtures to be installed anywhere within its jurisdiction. Feeling that as a small operator he could not afford to take a chance on using Kohler fixtures, Mr. Miles placed the order elsewhere.

Los Angeles County, Calif.

Journeyman Plumbers Local 761, of Burbank, has jurisdiction in the San Fernando Valley. It operates a hiring hall. The business agents of the local are Red Gibson and Bill Foder. They have been promoting a boycott of Kohler products.

On or about November 6, 1956, an unnamed steward of local 761 went to the Palmdale housing project where Ray Hadney Plumbing, of Glendale, was the plumbing contractor, and threatened damage to fixtures if the contractor insisted upon installing Kohler products. He mentioned a blowtorch "accidentally" directed on the enamel or a hammer dropped in the tub.

The plumbing contractor asked Wholesale Plumbing Supply Co., Kohler distributor, to pick up 25 Kohler tubs which had been delivered and cancel the balance of the order for 110 sets of fixtures.

S. R. Clark, Inc., of Downey, Calif., was the plumbing contractor on a 167-unit housing project in Palmdale. While the journeyman plumbers did not actually refuse to install Kohler fixtures, the foreman, a member of Burbank Local 761, said that he did not like to ask his men to install them. He implied that the men might take all day on a single fixture, and if the men were fired the business agent would probably send them winos, wine drinkers, in their place. Kohler tubs which had been delivered were returned to the Kohler distributor.

On November 5, 1956, Familian Pipe & Supply Co., of Van Nuys, Calif., a Kohler distributor, delivered 10 Kohler tubs to an apartment house project in Burbank for Yops & Mammill, Inc., a plumbing contractor from Van Nuys. The latter received a phone call from a business agent of local 761 to the effect that if they were planning on using nonunion material on the job they had better not proceed to install it "for your own good."

Hartshorn Bros., Bellflower, Calif., were the plumbing contractors on the Park-west Exhibit Homes in Woodland Hills. On March 6, 1957, they were informed by the local 761 steward on the job, Buzz Brown,, that his men would not install Kohler fixtures. Another make of fixtures was substituted.

According to the Los Angeles Times of December 1, 1956, Local 761 and union officials were sued for \$1,130,000 damages by two plumbing contractors, the Desert Plumbing Co. and Schneider & Wikoff, Inc., of Lancaster-Palmdale.

The complaint charged the defendants with vandalism, deliberately performing faulty work, and fostering deliberate loafing and deliberate strikes. These charges apparently had nothing to do with Kohler products.

Milwaukee, Wis.

The business manager and moving spirit in Plumbers Local 75, Milwaukee, is Mr. Anthony J. King. He has been a labor leader in Milwaukee for more than 30 years and has been prominent in both the Socialist and Progressive Parties. In 1951 he was enjoined by the Milwaukee circuit court from interfering with the business operations of Hugo A. Taggatz, plumbing contractor at Elm Grove, Wis., in a matter that had nothing whatever to do with Kohler Co.

Mr. King operates the local 75 hiring hall, which is the principal source of his power. A noncooperating plumbing contractor may get no journeymen, and a noncooperating journeyman may get no job.

During the fall of 1956, Mr. King was especially cooperative with the United Auto Workers' boycott of Kohler products.

Early that fall, Mr. King told a meeting of the apprenticeship committees of the plumbing contractors and journeyman plumbers in Milwaukee that there would be no point in using any Kohler plumbing fixtures in apprenticeship training because his members would refuse to handle them. However, Mr. King did not press the point when someone took issue with him.

The official bulletin of local 75 is issued over Mr. King's signature. The September 1956 issue included this paragraph:

"Kohler: The State Federation of Labor, in Convention August 23, adopted a resolution for the active support of the Kohler strikers. Members of organized labor were called upon to do all in their power to influence people against the purchase of Kohler plumbing fixtures.

"It was pointed out that individual members of organized labor have a right to refuse to handle Kohler plumbing ware and that they cannot be prosecuted for doing so. Quite a number of our members have informed their employer that they will not install Kohler fixtures and are refusing to do so.

"Our attorney informs us that such action on the part of members is legal. As a citizen of this community, I wish to express my sincere admiration of those who are in this manner assisting the Kohler strikers."

Under the doctrine of the *Genuine Parts* case (119 NLRB No. 53), this exhortation to "individual" action, coupled with the implications of the hiring hall, constituted inducing and encouraging journeyman plumbers to refuse to handle Kohler goods in the course of their employment in violation of section 9 (b) (4) of the Taft-Hartley Act. This is a good example of "concerted individual refusal."

In August of 1956, Ellis Rahn, a journeyman plumber of the Knab Co., plumbing contractors for the Air Force Reserve Training Center at Mitchell Field, Milwaukee, told James Knab and Dick Sharp, Knab's superintendent, that Mr. King had told Rahn that he could not install Kohler fixtures on this job. Rahn and another of Knab's journeymen then refused to install Kohler fixtures. Knab Co. transferred journeyman plumbers from another job to do the installing.

We have already seen the part played by Mr. King in the St. Luke's Hospital situation in September and October of 1956.

On October 8, Mr. King told the Paul J. Grunow Co., plumbing and heating contractors for the Blockl Building, Milwaukee, that he would not permit Kohler fixtures to be installed. Mr. King visited the job on the pretext of checking whether laborers were doing plumbers' work. He did not look up the plumbing foreman but spoke to several journeymen plumbers and told them they could refuse to install Kohler fixtures.

Mr. King also visited the owner of the building, accompanied by several leaders of the Milwaukee Building and Construction Trades Council and a member of the plumbing contractor's firm. They told the owner that a citizens' committee such as had appeared at the St. Luke's Hospital was all ready to picket the Blockl Building, but they would hold it off if he would agree to use no more than 50 percent Kohler fixtures in his building.

Some fixtures of another make were used, but far less than 50 percent of the total.

There was no picketing, and Kohler fixtures were installed without difficulty.

Also in October, Wenzel & Henoch, Milwaukee plumbing contractors for a new Marquette University dormitory, were told by a representative of the Milwaukee Building Trades that Kohler fixtures were not to be used on this job. There was also talk of "citizen pickets." The contractor had had a requisition for 6 journeymen on file at the local 75 hiring hall for at least 2 months but had not received any men.

No picket line developed, and Kohler fixtures were used.

In December of 1956 a union steward in the employ of L. Soergel & Sons, plumbing contractors for a St. John's convent installation in South Milwaukee, told his employer that he was unwilling to install Kohler tubs on the job because he would be called before his union and be reprimanded. Tubs of another make were installed and trimmed with Kohler brass fittings. Later another journeyman plumber refused to install Kohler lavatories on this job.

While some plumbing contractors continue fearful of using Kohler fixtures in Milwaukee, the situation has vastly improved since the fall of 1956.

However, on January 29, 1958, Leo Breirather, boycott coordinator for UAW Local 833 strike committee, wrote a letter to Milwaukee journeyman plumbers which said in part:

"We wish to acknowledge the wonderful support received from the officers and members of local 75, in the campaign to stop Kohler sales in the Milwaukee area. We are proud and grateful to have earned the support of the United Association and also the great majority of the entire labor movement.

"Your actions have made Resolution No. 261 adopted at the 1956 Convention of the United Association a living document. * * *

"* * * We recognize that many of you have suffered personal hardship by exercising your rights as individuals to refuse to install Kohler products. As a result of our consumer boycott Kohler products are now almost nonexistent in Milwaukee County.

"We gratefully acknowledge the courtesy and cooperation of the officers and members of local 75 and Brother Tony King, business manager. Hoping that we may earn your continued support and with sincerest thanks, we wish to remain."

Phoenix, Ariz.

Plumbers, Steamfitters and Refrigeration Local 469 has jurisdiction in Phoenix, Ray Sanders is the business manager-financial secretary, Frank Profiri has been business agent, and "Monk" Witt was Profiri's assistant.

In April of 1957 about 10 Kohler bathtubs were delivered to the Villa del Coronado Cooperative Apartments in Phoenix for installation by McCullough Plumbing Co. of that city. Mr. McCullough was told by Paul Harrell, an apprentice, and the foremen for the electrical and carpenter contractors, that they would all "go fishing" if Kohler products were installed. Frank Profiri, then business agent of plumbers local 469, told Mr. McCullough to get the tubs off the job. He also said that the men would "go fishing."

Paul Harrell finally installed some Kohler colored fixtures selected by one of the owners on condition that some other make of fixtures would be used on the balance of the job. Later Harrell refused to unload Kohler sinks from a truck. "Monk" Witt, assistant business agent of local 469, was inducing and encouraging employees of LK Plumbing to refuse to install Kohler fixtures on these jobs. Threats were made to OK Plumbing and others to the effect that if an attempt were made to install Kohler fixtures there would be trouble.

Several of OK Plumbing's journeymen assured their employer that they were willing to install Kohler fixtures unless prevented by their union.

When Kohler fixtures were delivered to one of the jobs on August 21, 1957, no trouble was encountered and the fixtures were installed. According to several workmen on the job, this project had been the subject of a great deal of discussion at union headquarters, but when it became known that Kohler Co. was preparing to take legal action the journeyman plumbers were told not to refuse to install the Kohler fixtures.

On or about January 13, 1958, Mr. Clarence Tripon, owner of Arizona Plumbing & Heating Co., sent Charles Young, a journeyman plumber, to Eloy, Ariz., to work on a low-rent housing project. Young stated that he would not install Kohler fixtures which had been delivered to the job unless he had clearance from local 741. His reason was that he would be subject to a fine, ostensibly on the pretext of some other offense than setting Kohler fixtures.

The plumbing contractor, feeling that he would not afford to risk labor trouble, return 30 Kohler fittings which had been delivered to the job site and secured approval from the architect to substitute fixtures and fittings of another make.

The larger plumbing contractors of Phoenix, who are associated with local 469 in a pipe trades industry program, seem to be reluctant to offend the local by attempting to use Kohler fixtures.

These examples are illustrative of the activities of perhaps a dozen or two dozen other journeyman plumbers' locals around the country.

EFFECT OF THE BOYCOTT

Obviously, Kohler Co., has lost some orders because of the boycott. However, we believe that this has been more than offset by other business which we are receiving directly as a result of the stand we have taken. We have received many thousands of letters to this effect.

But whether it is in spite of the boycott or because of it, our company is at least holding its own competitively. National magazines have quoted our competitors to this effect.

While the decline in residential construction during the past 2 years has been felt significantly by our entire industry, our sales and earnings have been affected less than those of competitors, according to the latter's published reports.

Our production is the best we have ever had, both in output per man-hour and the quality of our product. This comes from the finest work force in our history, mostly veteran employees.

Our selling is aggressive.

We come to grips with the boycott wherever the threat appears.

We believe we have demonstrated that a company need not succumb to union violence and coercion, but can successfully take a stand for principles in which it believes.

The CHAIRMAN. Mr. Conger, I notice, is also appearing as counsel for Mr. Chase.

Mr. CHASE. The United Auto Workers in their propaganda and in a memorandum filed here by Mr. Counsel, have taken pains to label this boycott as a legal primary boycott, a consumer boycott. As I point out in the written statement, that, of course, would be a voluntary withholding of their own patronage and that of their friends and sympathizers.

Of course, we would not contest their right to do that. Neither would we contest their right to promote that sort of a program, providing their promotional propaganda bore some relationship to the truth.

The propaganda which has been spread around this country bears a much closer resemblance to some of the testimony we have listened to before this committee.

It has been our experience, and I believe it would be the experience of most primary boycotts, that the primary boycott becomes engulfed very quickly in the secondary.

That, of course, is the sinister thing, this throwing in of neutrals to the dispute. We think that that is the evil against which the 80th Congress directed its efforts in enacting the Taft-Hartley Act.

We do not claim that all of the forty-some examples referred to in my memorandum, or statement, are illegal under the Taft-Hartley Act.

We think in some respects they are examples of the sort of thing which should be illegal.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. I do not want to consume any more time with any of these witnesses than necessary to make the case clear, so I will not interrupt now if you intend to cover it a bit later, but I would like to have you cite cases of a boycott which you believe is illegal, and then also point out some of the transactions which you contend have the same effect as a boycott, and which Congress ought to consider whether or not they should be outlawed.

Mr. CHASE. Senator, I have done that to some extent in my prepared statement, and in my testimony I will keep that in mind and try to point out which is which as I go.

Senator CURTIS. Thank you.

Mr. CHASE. The boycott started soon after it became apparent that the campaign of violence had failed. In the late summer of 1954, groups of strikers began going out in their cars to other communities, and I think there has been some testimony on that before this committee.

In September of 1954 leaders of the CIO in Wisconsin, including Harvey Kitzman of the UAW, and Charles Shultz, the State president, issued a resolution in Milwaukee which was reported in the striker's own weekly paper, the Kohlerian on September 30, 1954, calling on all union members and their families to join the boycott.

We can't claim that that statement standing alone violated the law. We think they have a right to ask their friends to withhold their own patronage if that is what they choose to do voluntarily and on their own volition. Then came a convention of the Wisconsin State Industrial Council in Milwaukee, from October 20 to 24, 1954, which adopted a resolution calling upon workers and others, and I quote briefly from that resolution,

To refrain from buying or installing any of the goods or wares produced by the Kohler Co.

We think the reference to installing there is significant because if there is a refusal to install, it deprives the consumer who might otherwise want to buy the product from getting it. The product must be installed to be used. These fixtures, of course, are customarily installed by union journeymen plumbers.

(At this point, Senator Mundt entered the hearing room.)

Mr. CHASE. We think that that resolution if followed up by actual refusals, would constitute a violation of the law as it stands, although

I will agree that it hasn't always been too clear that that was the case.

The Taft-Hartley Act uses the language "inducing or encouraging employees to refuse to handle."

I don't think the inducing or encouraging has to be by their own union, and I think that inducing or encouraging by the UAW would still be a violation of the Taft-Hartley Act. But that is not as clear as it might be. Then on May 5, 1955, the UAW announced its full-scale national boycott, and I quote from the May 5, 1955, issue of the Kohlerian, the strikers' own weekly paper:

A nationwide boycott of Kohler products is underway, and will get your picketing of various places to help advertise the boycott.

We think that in that passage the reference to picketing is important because under many circumstances the picketing of a neutral is illegal under the Taft-Hartley Act.

We think that under appropriate amendments of that act all picketing of neutrals should be prohibited.

Spokesmen or witnesses for the union have testified to the nature of their boycott organization, and I will not detail that here as it is detailed in my statement on pages 4 and 5.

In addition to the 15 or so professional employees of the UAW named in the statement, several Kohler strikers were hired fulltime to work in the field on the boycott. I will come to that later. We found that almost any paid employee of any union anywhere might get into the act, and once in a while an amateur appears.

I have an exhibit I would like to offer at this time. It is from Labor's Daily of April 10, 1956.

It contains a statement by Robert Burkhart of the boycott efforts on his part. We offer it not as any evidence of the truth of what it states, but as to what Mr. Burkhart claims he was doing in the course of his travels.

The CHAIRMAN. Is that a newspaper article?

Mr. CHASE. It is from the Labor Daily, a union paper. We don't consider it just a newspaper article.

The CHAIRMAN. That will be made exhibit No. 109 for reference only.

(The document referred to was marked "Exhibit No. 109" for reference and may be found in the files of the select committee.)

Mr. CHASE. Mr. Brierather testified, when he appeared here before the committee on behalf of the union, of a boycott staff meeting in Detroit during the week of November 29, 1957. By way of further identifying the participants in that we have a picture taken from the UAW Local 833 Reporter and Kohlerian of November 29, 1957. That is only for reference.

The CHAIRMAN. That may be made exhibit 110.

(The document referred to was marked "Exhibit No. 110" for reference and may be found in the files of the select committee.)

Senator MUNDT. Does the picture carry an identification of the people on it?

Mr. CHASE. It does, Senator.

Much has been said of the interference with Government units in connection with the boycott. It has not been an effective boycott activity, but it has been one of importance, we think, because of its significance. The first was an effort in December of 1954 by petitions

directed to the United States Department of Defense, protesting the award of a contract for artillery shells to the Kohler Co.

The company was awarded the contract which it accepted, although it preferred not to because of the shortage of manpower at that time.

We have here as an exhibit several letters, and one of those petitions, on which the signatures were forged. We will offer that as an exhibit.

The CHAIRMAN. What is the exhibit?

Some letters? Identify them a little further.

Mr. CHASE. The first item in this set of five sheets is a letter from John Fanning, director of industrial relations, to a Mr. Schreiber, of 1015 North 23d Street, Sheboygan, dated December 28, 1954.

"Dear Mr. Schreiber."

The CHAIRMAN. That may be made exhibit 111.

(The document referred to was marked "Exhibit No. 111" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Just identify the others.

Mr. CHASE. The next is a letter from Herman Schreiber to the Office of the Assistant Secretary of Defense dated January 3, 1954.

The CHAIRMAN. That may be made exhibit 111A.

(The document referred to was marked "Exhibit No. 111A" for reference and may be found in the files of the select committee.)

Mr. CHASE. Next is a letter from Mr. John Fanning, the director of industrial relations of the Office of the Assistant Secretary of Defense, apparently to Mr. Schreiber.

Although Schreiber's name does not appear, it is dated January 17, 1955.

The CHAIRMAN. That will be exhibit 111B.

(The document referred to was marked "Exhibit No. 111B" for reference and may be found in the files of the select committee.)

Mr. CHASE. The next is a photostat of an envelope addressed to Charles Wilson, Secretary of Defense, Washington, D. C., postmarked December 11, 1954, Sheboygan.

The next one is the petition itself. I would like to discuss that series of exhibits.

The CHAIRMAN. That will be numbered 111C and D.

(The documents referred to were marked "Exhibits Nos. 111C and D" for reference and may be found in the files of the select committee.)

Mr. CHASE. Exhibit 111, the letter of December 28, 1954, reads as follows, and it is the letter to Mr. Schreiber from the Department of Defense:

This will acknowledge your communication to the Secretary of Defense concerning the recent award of a shell contract to the Kohler Co., of Kohler, Wis. The Office of the Secretary of Defense does not award contracts. Contracts covering required procurements are awarded by the three military departments.

The rest of the letter is not pertinent to my testimony. It is all in evidence.

Exhibit 111A, Mr. Schreiber's reply of January 3—

The CHAIRMAN. Are you reading all of the exhibits?

Mr. CHASE. No, Mr. Chairman, I am reading just the pertinent excerpts.

The CHAIRMAN. All right. Proceed.

Mr. CHASE. Mr. Schreiber's reply of January 3 stated—

I have received a letter from your office dated December 28, 1954, acknowledging the communication supposedly from me regarding a recent award of a shell contract to the Kohler Co., of Kohler, Wis.

It is possible to send that communication to me? Someone has used my name to try and influence your office one way or another regarding this contract. I have sent no communication to your office, but would like to find out who sent that letter.

The CHAIRMAN. Who wrote that letter?

Mr. CHASE. That was written by Mr. Herman Schreiber.

111D was Mr. Fanning's reply to Mr. Schreiber returning the petition bearing Mr. Schreiber's name, and stating—

This office followed the practice with respect to many of the petitions received of sending an acknowledgment to the first name on the petition. This explains the reason why you received a letter from us.

The petition which I will not read is headed, "We protest using our tax money for strikebreaking at Kohler."

The first signature on it is that of Mr. Herman Schrieber, who is this correspondence denied having signed it. Other signatures on that petition who are persons who have denied signing it are Harvey Hensel, of Sheboygan, Dr. Willard Hugh Bricksey, of Sheboygan, and there the name was misspelled on the petition, Robert Emig of Sheboygan, and Dr. James Huehn of Sheboygan. Whether other signatures on the petition were forged, we do not know.

However, the last name is that of Frank Geray. The telephone book of that time showed no Frank Geray. It did show a Gus Geray, and a man with a first name of Frank on the next line in the telephone book.

We don't think that that is a mistake which the man himself would have made. Apparently whoever put his name there took the first name from the next line in the book.

The next example of pressure on governmental units in my statement was with regard to the William Vinson case, in the Circuit Court of Sheboygan County, and I believe the committee has had ample testimony on that. That is the attempt to intimidate Judge Schlichting, and I believe the judge has been here and there have been several other witnesses on that incident.

The next incident covered in my prepared statement was the clay boat riot in Sheboygan which has also been testified to at length before this committee, and I will not add my testimony to it, except to say that after this clay boat was unloaded at Montreal and the clay was shipped back to Sheboygan, Wis., by rail, the union again tried to interfere with the delivery of the cars by picketing the south railroad yards of the railroad, the Chicago & Northwestern Railroad in Sheboygan.

The police moved or asked the pickets to get off the track, and they did, and there was no further interference with the cars, and they were delivered. That was a couple of weeks after the lakefront riot.

The next incident referred to in my statement, and reported on page 10 of my statement, pertains to a resolution adopted by the House of Representatives of the State of Massachusetts on February 23, 1956, the day after Washington's Birthday when very few were in attendance.

The minority leader of the house didn't even know such a resolution had been introduced, much less adopted, until it appeared in the papers. The resolution was never messaged to the senate nor sent to the Governor and as far as we know it has never been effective.

It may be of interest that in a remodeling job of the statehouse where the resolution was adopted, Kohler plumbing fixtures were used. That is a "plug," Senator.

The CHAIRMAN. I guess you are proud of that?

Mr. CHASE. Yes, sir.

The only county in the United States to adopt a boycott resolution was Los Angeles County where the county board adopted a resolution not naming the Kohler Co. by name but with Kohler Co. as the target according to statements made during the debate and in union propaganda.

The resolution was passed subject to the approval of the county legal counsel, and he never gave his approval, and so it never became effective. Later it was rescinded on his legal advice, after the committee had asked him for a legal opinion.

My statement quotes a portion of a resolution issued by the grand jury of Los Angeles County which did not indict the county board for its action but strongly condemned it in these words:

Now, therefore, be it

Resolved, That in the opinion of the 1957 grand jury, the original resolution of the board of supervisors was an unfortunate and improper decision and not in the best interests of the citizens of Los Angeles whom the board of supervisors represents.

We are aware of no other resolution on the county level anywhere in the United States.

On June 4, 1957, the City Council of Waterbury, Conn., adopted a Kohler boycott resolution which was introduced by Alderman Ovide Garceau, the UAW International representative in charge of the Kohler boycott in that area, who was an alderman.

Then on September 10, 1956, the board unanimously rescinded the resolution, following a legal opinion by the city attorney. Several other Connecticut cities, 3 others, passed similar resolutions, and 2 of them were later rescinded.

Similar resolutions failed of adoption in 4 additional cities, or rather 5 additional cities. We believe that all of them were the handiwork of Mr. Garceau.

In Massachusetts the City Councils of Boston, Lynn, and Worcester adopted resolutions, and New Bedford refused to. We have had no evidence that any of them have had a practical effect.

Two cities in Michigan, River Rouge and Lincoln Park, adopted resolutions which did not pertain directly to Kohler Co. Under the terms of the resolutions they would become effective with respect to a company's products upon specific action following a petition by citizens.

Senator MUNDT. I would like to ask the witness there, in the overall what has been the impact on the company of these boycott activities?

That is not related to any one community, be it Los Angeles or Austin or any other place, but in the overall what has been the impact, No. 1, on the company, and No. 2, have you any evidence that some of your distributors or some of your local retailers may have been individually hurt whether or not the company as such has been hurt?

Mr. CHASE. You are referring to these governmental resolutions now, or the boycott generally?

Senator MUNDT. The general boycott activity, and as I understand the resolutions are just 1 part, and I believe 1 part was started in picketing and abandoned and another part was the following of trucks, and the squad cars, and generally what we would call the overall boycott campaign.

Mr. CHASE. Well, I have an item on that at the end of my statement but I will summarize it here, Senator. The municipal resolutions have been relatively ineffective. They have influenced a few jobs. The one in Los Angeles did a large hospital job. The boycott has been effective in some places.

Senator MUNDT. In the first stage, you could say that you can trace certain municipal projects which you thought were going to sell and didn't sell, and you think that you can trace your failure to sell them to the municipal resolutions?

Mr. CHASE. There were a few, Senator.

Senator MUNDT. A few of those?

Mr. CHASE. Yes, sir.

Senator MUNDT. About how many?

Mr. CHASE. Well, I would hesitate to say.

Senator MUNDT. I don't want the exact number, but were there 5, 50, 500, or 5,000, just to give us a rough idea?

Mr. CHASE. I would think it was several dozen throughout the country.

Senator MUNDT. Now go ahead with the rest of it.

Mr. CHASE. I would like to interpose in connection with that this specific comment. While the boycott in total may have a very slight effect on the Kohler Co., because we sell in 48 States, and what happens in a single market may not be of overwhelming importance to us, that local market may be the entire source of business for one of our distributors, and it is very serious for many, and because it is serious for many, of course, it is for us, too, even though it doesn't affect our overall sales materially.

Senator MUNDT. What you are saying, as I understand it, is that if you lose a hospital in Los Angeles County because of a boycott, you don't sell some bathtubs there but maybe you can sell your bathtubs down in Texas or Louisiana some place, so that the impact on the company is not so serious. But to the man who is distributing bathtubs for Kohler in Los Angeles this might be the difference between success and failure?

Mr. CHASE. Exactly, Senator.

Senator MUNDT. And have you had reports from some of your distributors, and some of your retailers, or your handlers or your jobbers or whatever you call them, that they have been seriously injured financially as a result of the boycott campaign?

Mr. CHASE. Yes, Senator, and I believe some of them have been called as witnesses before this committee. I will touch on a few of those later in my statement, but I believe several of them will testify.

Senator MUNDT. Has it been serious enough impairment of their economic activity so that some of their employees may have lost jobs and their means of livelihood as a consequence of the effort of other workers to, in their own terms, protect their jobs?

Mr. CHASE. That is quite possible, although I can't name any employee who has lost his job in that way. I really don't know, but I would think there were some.

Senator MUNDT. You don't have precise firsthand information on that?

Mr. CHASE. I do not.

Senator MUNDT. Now, we were discussing the overall impact of the boycott campaign, and you got down to the point where the municipal resolutions and county resolutions and the pressure on public bodies, I believe you said, had cost you perhaps several dozen contracts?

Mr. CHASE. Yes, sir.

Senator MUNDT. Now, how about the other aspects of the boycott campaign?

Mr. CHASE. I may say this, before we move on to that, that this would not pertain to the municipal field, because there we think bidding should be competitive, and we take our chances with our competitors. In other areas we know that we have secured a lot of business, specifically because of the strike.

Senator MUNDT. Would you say that again?

Mr. CHASE. We know that in some of the other areas of the boycott involving private consumers, we have actually received business because of the strike.

Senator MUNDT. In other words, if I understand what you are saying now, it is that you have evidence that because of the boycott pressures and publicity revolving around them, that in some instances you have had people who will say, "We don't like this kind of activity, and we are going out deliberately and buy Kohler products, because we want to encourage them in resisting a boycott"; is that right?

Mr. CHASE. That is right, Senator. A lot of people just don't like to get pushed around.

Senator MUNDT. So while it may have hurt you in some places, it has increased your sales in others?

Mr. CHASE. That is right.

Senator MUNDT. I am sure of that.

Mr. CHASE. Yes, we know of instances. Now, whether the greater impact is on one side or the other, no one can say, because most consumers just don't communicate, and they either buy or don't buy and keep it to themselves.

We believe that the choice should be left to them, and those that want to buy our products should be able to do it and those who don't want to buy our products certainly don't have to.

Senator MUNDT. Is there anything else that you want to say on the overall effectiveness of the boycott, adding up to liabilities from the standpoint of the company, where it has cost you some business, as against dividends where it has encouraged others because of some independent spirit or resentment to purchase products from Kohler which they might not have done otherwise? On balance, subtracting one from the other, has the company been seriously hurt by the boycott?

Mr. CHASE. Well, one way or another, whether it is in spite of the boycott or because of it, we have at least held our own competitively.

Senator MUNDT. You have held your own competitively?

Mr. CHASE. Yes, sir.

Senator MUNDT. So that the main impact adversely of the boycott, as I understand your testimony, has not been upon the company but it has been upon jobbers or distributors or retailers in certain pockets or areas where the boycott may have been permanently or temporarily successful?

Mr. CHASE. That is right.

Senator MUNDT. Does the Kohler Co. solicit or receive any financial assistance from its distributors and retailers to help them continue their side of the strike, as the union tells us they have been getting assistance to continue its side of the strike?

Mr. CHASE. No, sir. Now, we do this: In an area where the boycott-pressure seems to be verging on the illegal, we retain counsel and we have a community of interest with our distributors, we believe, and with the plumbing contractors, and with the owners and everyone interested in having the material installed.

We try to work those situations out without litigation. There have been two of those situations which I will refer to a little later here, where there was litigation started, and we were not the nominal parties or complaining parties, but we were working very closely with our customers and we do that.

But we have not paid any of them money to resist the boycott or anything of that sort. We have not done that.

Senator MUNDT. That would be help from you to them. I am thinking of whether or not you tried to get help from them to you, to help you finance your operations as against the strikers.

Mr. CHASE. We haven't had a penny's help from anybody as far as I would know, and I think I would know.

Before I leave this matter of municipal resolutions, I would like to make this comment, that we believe neutrality in a labor dispute is the only tenable position for any public official to take.

We believe that true neutrality consists of just exactly what they would do without regard to the strike, rather than buying or refusing to buy because of it. That is true neutrality.

Senator MUNDT. In other words, you don't believe that the sale of the product should depend either on whether or not it is boycotted, or should be based on the idea of somebody trying to help the company which is involved in a strike situation?

Mr. CHASE. Certainly not in the public job field, not with the taxpayers' money. An instance not covered in my prepared statement, but which has been referred to in this hearing, is the one at Duluth, Minn., where St. Mary's Hospital has been threatened with the withholding of patronage by the unions there, where the community fund has been threatened with a union boycott unless it eliminates the hospital from the list of agencies. I have two rather recent issues of the Labor World, the union paper in Duluth, Minn., bearing on that, which I would like to offer as exhibits because they show the temper of the activity at Duluth.

The CHAIRMAN. How many papers are there, how many issues?

Mr. CHASE. Two issues.

The CHAIRMAN. They may be made exhibits 112 and 112A.

(The documents referred to were marked "Exhibits Nos. 112 and 112A" for reference and may be found in the files of the select committee.)

Mr. CHASE. The issue of February 27, 1958, would be 112, I take it, and the issue of March 6, 1958, would be 112a. The statement has been made to witnesses before me, union witnesses, that the UAW had nothing to do with that boycott of St. Mary's Hospital. Reading from exhibit 112A, Labor World for March 6, 1958, the third paragraph of the lead article on page 1, it is as follows:

Vice President Ed Murnane, St. Paul, subregional director of the A. F. of L-CIO United Auto Workers, said full details of the St. Mary's incident will go directly to the UAW International in the Kohler strikers. "In fact," said Murnane," the UAW may seek an investigation of methods used to influence northern Minnesota buyers, like St. Mary's, in favor of Kohler fixtures.

Then they followed with action directed to the State of Minnesota. I have one more here, which, with the chairman's permission, might be 109B of the same paper.

The CHAIRMAN. That will be made 112B.

(The document referred to was marked "Exhibit No. 112B" for reference and may be found in the files of the select committee.)

Mr. CHASE. It is the March 13 issue, in which an article on page 1, column 3, relates an effort to extend the boycott of public works in Minnesota to the University of Minnesota.

Senator MUNDT. Speaking of boycotts of hospitals, Mr. Chase, I have received some information which I state simply on the basis, I don't know whether there is any validity to it or not but you should know, that there was a boycott by the UAW of a hospital in Wisconsin. Do you know anything about that? Is that substantiated by fact?

Mr. CHASE. I believe the Senator may refer to St. Luke's Hospital in Milwaukee.

Senator MUNDT. That was the name of the hospital I heard about

Mr. CHASE. I am coming to that a little later in my statement, if I may.

Senator MUNDT. As long as you were talking about hospitals, I thought I would refer to that. It is all right with me if it is further in your statement.

Mr. CHASE. There has been testimony before this committee of the follow-the-truck campaign of this local union, 833. I was not in Kohler, in fact, I was not in the country when that started. My assistant, Mr. Desmond, is thoroughly familiar with that. I am not going to try to cover all of the instances referred to in my prepared statement; but Mr. Desmond was an eye witness to two of these incidents in Milwaukee.

With the committee's permission, I would like to have Mr. Desmond, who has previously been sworn as a witness, testify to those two instances which is personally observed.

The CHAIRMAN. I am sorry.

Did you offer another exhibit?

Mr. CHASE. No, sir. I just commented that I would not go into all the details of these follow-the-trucks incidents referred to in my statement, but that Mr. Desmond, my assistant, who was an eye witness to two of these, who is here helping me with the exhibits and the papers, with the committee's permission I would like to have Mr. Desmond interpose his testimony at this time on the two incidents that he observed.

The CHAIRMAN. Mr. Desmond, you have been previously sworn?

Mr. DESMOND. Yes, sir, I have.

The CHAIRMAN. Without objection, the committee will hear you on those two incidents with which you are familiar.

TESTIMONY OF GIRARD A. DESMOND—Resumed

Mr. DESMOND. Senator, at the time the union engaged in following our trucks, our truck drivers were very apprehensive about that particular thing. They were intimidated.

Wherever they went the car containing the strikers would follow them. As you have heard in other testimony here, they, if they went into a restaurant, the car containing the strikers would stop and go into the restaurant, and they would stand very close to them, and our drivers felt that something would happen to them if that continued without anyone there to protect their interests.

I spoke to many of the truck drivers, took affidavits from them, concerning the experiences that they had, and it was decided that myself and other representatives of the company would follow the trucks to be sure that nothing would happen to them.

On one occasion, on May 27, 1955, when our truck made some deliveries to F. R. Dengel Co., on Third Street in Milwaukee—I think it's Fourth Street—they were followed by the strikers, and at the time when the truck was making deliveries to the F. R. Dengel Co. the strikers would picket the truck, call the truck drivers names, "scabbies," "slimy scabby," and names of that caliber.

We were there with the object in mind to, first of all, be sure that nothing would happen to them, and, secondly, to record whatever was necessary in the way of evidence which would assist us at some later time if it became necessary to do anything about it.

(At this point, Senator Mundt entered the hearing room.)

Mr. DESMOND. We had a man with us who was a photographer, and we were taking photographs of the truck as it was being unloaded. A short time after the truck was there, Ray Mejerus, an international representative of the UAW-CIO, came down and threatened one of our photographers.

He said "If you take a picture of me, you wouldn't have that camera." He said, "You wouldn't be able to go to any court, either."

On another occasion, another representative of ours, who was not present at that time, he was in F. R. Dengel Co., came out and was taking photographs of the unloading of the truck, and Majerus rushed over to him and came in bodily contact with him, and made an effort as if to grab him and grab the camera away. At that particular time, there were two policemen there and they grabbed ahold of Majerus, pulled him away, and restrained him from making a further assault upon our representative. The policemen were not called by us. I think they were called by the F. R. Dengel Co. That is all I have in connection with that particular incident.

Incidentally, I saw the whole thing happening there and Majerus, when he was talking both to the two photographers, was talking in a very angry and menacing manner, and the men there were afraid of what would happen to them if he was allowed to attack them.

We have some photographs here that we would like to offer as an exhibit. This one is a photograph taken on May 27, 1955, by Paul

Jacoti, one of our representatives, and it shows the signs that were carried by the pickets, and the pickets around the truck, and some policemen. We would like to offer that as an exhibit.

The CHAIRMAN. Is that the incident you have been testifying about?

Mr. DESMOND. Yes, sir.

The CHAIRMAN. That may be made exhibit 113. Is it two photographs?

Mr. DESMOND. Yes, sir; two photographs.

The CHAIRMAN. 113 and 113a.

(The documents referred to were marked "Exhibits Nos. 113 and 113A" for reference and may be found in the files of the select committee.)

Mr. DESMOND. This other photograph shows two policemen and Ray Majerus, the international representative of the UAW-CIO, arguing with the policeman. We would like to introduce that.

The CHAIRMAN. That is 113A.

Mr. DESMOND. There was another incident I was a witness to, Mr. Chairman, and that was an occasion when our truck delivered some material to a customer of F. R. Dengel Co., a plumbing contractor by the name of Neis Co.

This customer of Dengel is located in West Allis, which is a community contiguous to Milwaukee, and at the time when our truck made the deliveries to that particular contractor, the loading platform was at the southwest part of the building.

The Neis Co. is located at 79 something West National Avenue. I think it is 7913 or 7915, something like that.

And the loading platform is near a railroad a block away from National Avenue, which is quite a thoroughfare in West Allis.

At that time, Donald Rand, another international representative of the UAW-CIO was there, and at the time when the material, the Kohler materials, was being unloaded from the Kohler truck, Donald Rand went up into the warehouse and spoke to Willard Neis, one of the sons of the owner.

I was there at the time. And Donald Rand told Mr. Willard Neis that he should not handle Kohler products and should not accept that particular shipment.

Mr. Neis asked him if that was all he had to say, and when Rand said "Yes," Mr. Neis said that he could be excused. At that particular point, Rand walked down the stairs from the warehouse to the point where the pickets were picketing the Kohler Co. truck, and he took four pickets and took them around to the front of the Neis Co. building, which was a block away, and they began picketing the entrance to that plumbing contractor.

Senator CURTIS. Mr. Desmond, I want to get this straight. Is Dengel Co. owned by Kohler?

Mr. DESMOND. No; that is an independent distributor, and an independent plumbing wholesaler.

Senator CURTIS. Do they handle other makes of products besides yours?

Mr. DESMOND. I think at that time, Senator, Kohler was the—they had one full-line manufacturer. By that I mean that handled all of the plumbing fixtures and fittings, and I don't think that they had any other full-line manufactures.

Senator CURTIS. They had sold some of your products to a contractor named Neis?

Mr. DESMOND. Yes, sir; that is right.

Senator CURTIS. And when your truck arrived at Dengel—

Mr. DESMOND. No, sir. At that particular point they arrived—

Senator CURTIS. Well, what I mean is you took it up there rather than unloading it at the distributor and having it be reloaded and take it on to the contractor. Your truck went direct to the contractor?

Mr. DESMOND. That is right, sir; yes, sir.

Senator CURTIS. In that instance, in addition to the harassment which you have just told about, and the remarks made to young Neis, did Neis company have an office or a place of business there, too?

Mr. DESMOND. Yes, sir; they had this warehouse which was in back of their office and general showroom. On National Avenue they had a very large store, in which they displayed fixtures and other plumbing products that they sold, and they had a show window, and that is the place where Rand took these four pickets to picket the front of the store.

Senator CURTIS. Did they picket the front of the store?

Mr. DESMOND. Yes, sir; they did.

Senator CURTIS. Do you know for how long?

Mr. DESMOND. Well, they picketed there all the time when the truck was being unloaded, and after the truck left Neis Co., they continued picketing at the front of the store on West National Avenue, and also down at the loading dock. And Rand—

Senator CURTIS. In other words, these boycott activities not only extended to the distributor, Dengel, but they also extended to his customer, which was Neis, the contractor; is that right?

Mr. DESMOND. Yes, sir; that is right. The significant part about that is this: That after the truck left, the Kohler Co. truck left, they continued picketing for quite some time.

I think it was about three-quarters of an hour to an hour or so. We had left that location and came back and they were still there, the pickets were still there, after the truck, the Kohler Co. truck, had left. We have some photographs here of that particular incident which we would like to offer.

We have five photographs here which we would like to offer. One shows the Kohler truck backed up into the loading platform of Neis Co., and it shows the pickets—

The CHAIRMAN. That may be made Exhibit 114, and the other four will be 114A, B, C, and D.

(The documents referred to were marked "Exhibits Nos. 114, 114A, 114B, 114C, and 114D," for reference and may be found in the files of the select committee.)

(At this point, Senator Goldwater entered the hearing room.)

Mr. DESMOND. I would like to call the committee's attention to one of the pickets there, No. 4, who was Roy Johnsen, one of the witnesses who testified here a few days ago. He is indicated as No. 4.

Another one here shows the front of the Neis Co. store, and shows the picket signs, the pickets are not very discernible, here, although you can see them. It shows the picket signs.

Another one here is taken from the inside of the Neis Co. and shows Donald Rand standing on the sidewalk in front of the Neis Co., and also shows two pickets. One of them is Fred Byrum and the other one is Roy Johnsen.

These photographs show the back of these pickets, but I was there and I can identify both of them from the back. Donald Rand, on the other hand, shows a front view, and I think he is very discernible. There is another one here that was taken on West National Avenue; it shows the pickets picketing the front of Neis Co.

It shows a side view of Roy Johnsen, and the back of Fred Byrum. Another one shows the loading platform of the Neis Co., a block away from the street where the other photographs were taken, and shows the pickets still picketing after the Kohler truck had left.

I had talked to another Neis man by the name of Harvey Neis, and after the truck had left, he heard Donald Rand tell the pickets, "We will keep them here."

The photographs indicate that they are still there, but it was Donald Rand, according to Mr. Harvey Neis, who directed the pickets to stay at the premises, after the truck had left.

(At this point, Senator Goldwater withdrew from the hearing room.)

The CHAIRMAN. Have you concluded, or have you about concluded your testimony?

Mr. DESMOND. I have concluded; yes, sir.

The CHAIRMAN. I wasn't trying to preclude you from proceeding at all, but I was trying to get a point where we could recess.

The Chair has to be on the floor for a little while, to try to get some floor work done in connection with this committee. I am trying to find the proper and convenient time to recess until this afternoon.

Is there anything now before we recess that either of you wish to state?

Mr. DESMOND. I would like to make one additional comment, Senator, in regard to the picketing at Neis Co. Mr. Paul Jacobi was with me at the time, and in order to take photographs showing the picketing at the front of Neis Co. store, Mr. Jacobi and I walked across the street and he was taking photographs. Donald Rand followed us over there and was positioning himself in front of Mr. Jacobi every time he started to take a picture, and he went to the point of coming in bodily contact with Mr. Jacobi. I got too close to him one time and he said "You better keep away from me, Desmond. I am looking for an opportunity to get at you."

That is all I have, Senator.

Mr. CHASE. Senator, those two examples will conclude our testimony on this phase of the boycott. We have a number of other examples in my prepared statement, but we will present only those two orally.

The CHAIRMAN. The Chair wishes to interrogate you briefly, and probably other members will have some questions also.

Senator CURTIS. Briefly, yes.

The CHAIRMAN. Please be back at 2 o'clock.

I am unable to announce at the moment whether the hearing this afternoon will be resumed in this room or if the caucus room will be available to us. We will have to ascertain that during the noon hour. You will just have to do your best to find out for yourselves.

We will resume at 2 o'clock either here or in the caucus room.

(At this point, the following members were present: Senators McClellan and Curtis.)

(Whereupon, at 12:01, a recess was taken until 2 p. m. of the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

(At the reconvening of the session, the following members of the committee were present: Senators McClellan and Curtis.)

TESTIMONY OF LUCIUS CHASE—Resumed

The CHAIRMAN. Senator Curtis, did you have some questions?

Senator CURTIS. Not at this point. I will wait until the witness has concluded.

The CHAIRMAN. There has been testimony before the committee regarding the amount of money this strike has cost the union, an amount, I believe, conceded to be in excess of \$10 million. I do not believe we have any statement in the record of the amount this strike has cost the company. Are you prepared to give us that information?

Mr. CHASE. I do not have that figure, Senator. The committee staff has had full access to the company's books and records. I thought that they had obtained that.

The CHAIRMAN. Does any one for the Kohler Co. have those figures, do you know?

Mr. Conger?

Mr. CONGER. Senator, I don't believe that any one can make an accurate appraisal of what this strike has cost the company. There are certain fixed expenses that could be tabulated, but I would know no way of finding an absolute accurate or even an approximate figure of that.

The CHAIRMAN. I am not talking about in loss of business. At the moment I am talking about in actual expenditures in opposing the union and in trying to win the strike, and that is what you have been doing.

Mr. CONGER. You get into these shadow areas. For example, the cost of supervisory salaries during the 54 days we were shut down with the mass picket line. Is that a strike expense or isn't it?

The CHAIRMAN. I understand. I wouldn't expect you to be as accurate as a certified public accountant might make it. But I thought for the record we should have some reasonable estimate as to the cost, what it has cost the company to resist this strike.

Mr. CONGER. I can ask our accounting department to give an estimate, but it will be only an estimate.

The CHAIRMAN. I can appreciate that. Will you do that and submit those figures so we will have some basis?

Mr. CONGER. Yes.

The CHAIRMAN. I do not imagine the \$10 million is accurate which the union has spent. I imagine that it is a rough guess, with regard to finality, but I thought we ought to have some figures in this record, as near as we can get to accuracy, with respect to what the company has spent on this strike.

Mr. CONGER. We will do our best on that, Senator.

The CHAIRMAN. I do not know whether you are the one to answer this, Mr. Chase, or Mr. Conger: Is the plant operating now to capacity?

Mr. CHASE. It is operating normally, Senator. It very seldom operates at all capacity.

The CHAIRMAN. You say it is operating normally. What percentage of capacity would you say? Let me ask this way, first: Is it back now in production to a level comparable to its production at the time the strike was called?

Mr. CHASE. It is, in relation to the potential market; may I point out, Senator, that approximately 900,000 homes were started in this past year.

The year before, about 1,100,000. The year before that, 1,300,000, and residential construction does represent the principal market for this industry. Now, in relation to the market available, we are in normal production by prestrike standards.

The CHAIRMAN. Of course, if they build a million less houses, you would sell a few less fixtures; is that correct?

Mr. CHASE. That is right.

The CHAIRMAN. On the basis of the economy in 1954 and on the basis of the economy in the construction program now, you would say that the company is back operating on a normal basis?

Mr. CHASE. Yes, sir. We feel we have maintained our competitive position.

The CHAIRMAN. Did you lose money in 1954?

Mr. CHASE. No, sir.

The CHAIRMAN. In spite of the fact, the company made money in 1954?

Mr. CHASE. They made money in 1954.

The CHAIRMAN. Is that over and above the cost of the strike? I mean, do you include that in your operating expenses and you still made money?

Mr. CHASE. That was over and above everything. We had a net taxable income in 1954.

The CHAIRMAN. How about 1955?

Mr. CHASE. We had a much larger net income in 1955.

The CHAIRMAN. 1956 and 1957?

Mr. CHASE. And in 1956 and in 1957.

The CHAIRMAN. 1957 was a larger year than 1955 and 1956? Have you been increasing your profits each year?

Mr. CHASE. 1957 was the year of declining residential construction, but in relation to the market we felt that it was as good a year as 1955.

The CHAIRMAN. I am trying to determine this: Have you felt any appreciable injury from the boycott?

Mr. CHASE. We have, Senator, in this respect:

The boycott necessitates our taking offsetting action against it. To the extent that we may do a better and harder job of selling, to the extent that where we lose one job we go after the next one a little harder, it is difficult to measure. But in net effect we don't feel the boycott has hurt us. We feel that in one way or another we have protected ourselves from it. The real injury is to our customers. Here and there a distributor who had a relatively localized market has felt it severely.

The CHAIRMAN. In other words, in certain instances it has hurt your distributor considerably. It hurts him, because it is directed against him, it hurts him worse than against the company?

Mr. CHASE. That is right, Senator.

The CHAIRMAN. The company can look for other outlets, whereas the distributor is localized, and he has to depend on a local trade area.

Mr. CHASE. That is right.

The CHAIRMAN. These local distributors have been your representative or your distributor in these localities in some instances for many years, have they?

Mr. CHASE. For many, many years. I think it is characteristic of our distributors that they have been with us a long time.

The CHAIRMAN. And in representing you and handling your products, I assume they handled it exclusively, when they handle your line of products?

They handle that exclusively?

Mr. CHASE. The smaller ones do. There is no requirement by us that they handle them exclusively, but the smaller ones do as a matter of practice simply because they cannot finance more than one full line. The larger distributors, some of them handle several lines.

The CHAIRMAN. But some of the distributors spend money advertising, building up trade for the product?

Mr. CHASE. That is right, and they have done that over a period of years. They have identified their name and their goodwill with that of the Kohler Co.

The CHAIRMAN. And, of course, if they strike, I mean if the union strikes them, puts up a picket line and so forth, it does them great harm.

Mr. CHASE. It does, Senator.

The CHAIRMAN. What has been the trouble with plumbers installing your equipment by reason of the boycott?

Mr. CHASE. That has been very spotty. There has been no general nationwide pattern of that, but some local plumbers' unions have engaged in that sort of thing. There is no overall pattern nationally of that.

The CHAIRMAN. Are you having any serious trouble getting your equipment installed anywhere in the country?

Mr. CHASE. We have in a few places.

The CHAIRMAN. How many? What would you say?

Mr. CHASE. Perhaps two dozen in varying degrees, not continuously but here and there and off and on.

The CHAIRMAN. Throughout the United States, you have a problem, maybe, in two dozen different places?

Mr. CHASE. Probably about that number.

The CHAIRMAN. And some of that, as you say, varies in degree?

Mr. CHASE. That is right. It varies from time to time and from place to place.

The CHAIRMAN. I don't know how much money has been spent on this boycott effort, but as I understood you to say this morning in your testimony, as a result of the boycott it has evoked some resentment in some areas, and, therefore, you have gotten business by reason of that, from new sources.

Mr. CHASE. Very definitely, Senator.

The CHAIRMAN. In other words, what would you say by way of comparison, that you have gotten more business from new sources by reason of the boycott and the resentment that it may have built up in some people, than you lost by reason of the boycott effort?

Mr. CHASE. That is my opinion, Senator.

It is difficult to measure, but I feel that way.

The CHAIRMAN. In other words, then, when we sum it up, notwithstanding the boycott, however extensive the effort has been to apply it, and notwithstanding the amount spent on it, and notwithstanding whether it is a primary or a secondary, kind of a boycott or both, you feel that the company has profited just as much from the boycott as it has lost?

Mr. CHASE. I think the company has, but, again, with reference to our customers, some of them have been badly hurt.

The CHAIRMAN. The company in the overall has not lost by reason of it, but individual customers, distributors, who are innocent in the controversy, who are not parties to the controversy, who are just simply distributors selling the product, they have been hurt?

Mr. CHASE. That is exactly the point, Senator.

The CHAIRMAN. What is your remedy for this situation? While your company survives it, I feel reasonably sure I have made the statement, and would you agree, your company has been able to survive these strikes, the mass picketing and the boycotting and the other means or tactics employed by the union, and go on operating normally, making money, without getting hurt.

What would you say would happen to a company of less financial resources to meet up with the same pattern of pressures, whether legal or illegal? Let's just say the same type of pressure. Would they be able to combat it?

Mr. CHASE. They would have a very difficult time, Senator. And even more than the amount of financial resources is the question of acceptability of the product in the market.

The CHAIRMAN. The what?

Mr. CHASE. Acceptability in the market. How widely known and how well established is the line. How much demand is there for the product?

A small company which hasn't developed a national demand for its product, which doesn't have extensive resources, would have a most difficult time if faced with this kind of a threat.

The CHAIRMAN. The purpose of my question is to try to get some facts on the record so that we can evaluate it with respect to whether legislation should be directed at the type of boycott or the practices that have prevailed here in this boycott in order to protect businesses and to protect the public.

Mr. CHASE. I feel very strongly that when the battle goes beyond the immediate contestants in the arena, that it has gone too far.

I think that neutrals, these third parties, are not only the principal victims but the ones most in need of protection.

As soon as the effort goes beyond mere voluntary persuasion, the "Please, wouldn't you help us" sort of thing, it has gone too far.

The CHAIRMAN. We are getting down, I hope, near to the end of these hearings, and I hope we can conclude this week, but I would like to ask you one other question.

I would like to get both sides to comment on it, the proper representatives. Do you feel that you have won the strike and that you survived the boycott, and that now there is nothing else for you to be concerned about with respect to collective bargaining with the union?

Mr. CHASE. Collective bargaining doesn't fall within my province. Mr. Conger has charge of labor relations. My area of interest is everything else. I would rather have him answer that.

The CHAIRMAN. I will ask Mr. Conger the question. Do you feel now you have won the strike and there is no necessity for you to further bargain with the union?

Mr. CONGER. The answer to the first half I think would be "Yes," and the answer to the second half would be "No." We are always willing to entertain the idea of settlement of the strike. We would certainly like to see the thing wiped out if there is any reasonable means of doing so.

However, any settlement that we might make on that would have to take into consideration the rights of our employees.

The CHAIRMAN. There is one other thing that I am unable to reconcile in your position, Mr. Conger, and that is you take the position that you will not bargain, or you feel like you shouldn't bargain, with a union that does not represent a majority of your employees.

And you have taken the position, and I understand it is an issue now before the National Labor Relations Board, that the UAW no longer represents a majority of your employees.

I don't understand how you can anticipate any negotiation or settlement until that first question is resolved, as to whether they do or don't.

Mr. CONGER. Certainly no settlement that would envision a contract, Senator. However, the 1934 strike has been referred to many times here. That strike was settled with a committee from the A. F. of L., and settlement was reached, although they did not represent a majority of our employees. But the settlement did not include a contract.

The CHAIRMAN. As I see, then, you would be willing to negotiate with respect to settling the strike?

Mr. CONGER. That is correct.

The CHAIRMAN. But you will not negotiate with respect to a contract until it is established that they represent a majority?

Mr. CONGER. That is correct.

The CHAIRMAN. Is that your position?

Mr. CONGER. That is correct, Senator.

The CHAIRMAN. I am trying to get it clear on the record.

Mr. CONGER. I think that is a very good statement of it.

The CHAIRMAN. Are there any questions, Senator?

Senator CURTIS. I have 2 or 3. Has the witness finished?

Mr. CHASE. No, sir.

The CHAIRMAN. I am sorry. I beg your pardon. I thought you had finished. All right, proceed.

Mr. CHASE. I think what I said was we had finished that phase of the boycotting.

The CHAIRMAN. I was laboring under the impression that you had concluded. Go ahead.

Mr. CHASE. At the close of the morning session, Mr. Desmond was giving his eyewitness account of two instances of following trucks, one to a jobber's place of business and the other to a contractor's. I

would like to point out that in the case of the contractor, he was twice removed from us.

He wasn't our direct customer. He was our customer's customer. In my statement, in my prepared statement, there are two other instances of that. There is the Reupert Plumbing Co., of Milwaukee, and the instance is covered on page 13 of my prepared statement, where the contractor, Reupert Plumbing & Appliance Co., was afraid to take in the material that was being delivered by our truck because of the threatening conduct of the pickets, and the truckmen took the products to our jobbers' place of business where he would pick it up later.

On page 17 of my prepared statement, I referred to another instance of picketing on this second level down, South Side Hardware Co. in Sheboygan. There, too, the place being picketed was not our customer's place of business, but his customer's place of business.

We also refer on the same page to a truck of the Decker Truck Lines that was followed all the way to Sioux Falls, S. Dak., from Sheboygan, which is quite a ways for a truck to be followed.

This picketing, this following of trucks and the picketing of Kohler trucks, was not the only picketing of third parties by the United Auto Workers. There was the case of the Hartshorn Bros., Bellflower, Calif., in the vicinity of Los Angeles. Hartshorn Bros. are plumbing contractors. None of their employees belong to the United Auto Workers, and there was no labor dispute there.

In the fall of 1956, someone who identified himself as a UAW representative asked Hartshorn to go along with the boycott, and they refused.

Then early in the spring of 1957 there were two pickets appeared at Hartshorn Bros., and the next day they were joined by another.

These were pickets who had picketed the Kohler Co. showroom in Los Angeles.

The interesting thing there is, I think, first of all, that Kohler Co. did have a place of business in Los Angeles which could have been picketed; they didn't have to picket the customer to get at Kohler Co. even if the argument were to be made that that sort of thing was legal.

I don't think it is, but even if the argument was made, there was a Kohler Co. place of business in Los Angeles which could have been picketed.

Well, they picketed back and forth across an alley that was used by truckdrivers coming to pick up material, not only Kohler material, but everything that Hartshorn handles, which was used by Hartshorn workers. That went on for several days.

We consulted with Hartshorn Bros. on it, and Hartshorn filed charges before the NLRB, the regional office in Los Angeles, and that was one of the so-called settlements that the UAW made.

They agreed to discontinue the picketing, and a settlement order was entered to that effect. They had to post a notice, and that sort of thing.

That was one case where legal action was taken. Another was the Link Co. at Jackson, Mich.

In December of 1956, 4 men, 1 of whom was John Archambeault of Detroit, a UAW-CIO international representative in charge of the boycott in that area.

They asked Mr. Link to discontinue handling Kohler products, some threats were made, and he refused to do it.

A plumbing contractor, a customer of Link's, Paul Bengel, was called to the union hall, where John Archambeault, of the UAW, and Mr. Brannick, who is journeymen plumbers local officer, and several others confronted Mr. Bengel with crossing the Link picket line.

I think that came a little later. They confronted him with installing Kohler fixtures. Mr. Archambeault said, "If Bengel sets Kohler fixtures, we will have to picket Bengel's place of business."

Bengel replied that he didn't want any trouble, and another union man there said that he didn't want anybody to get hurt.

Then a few days later, Bengel was called down to the CIO hall again. He found these same men there. Mr. Archambeault suggested a compromise, that Mr. Bengel be permitted to install Kohler fixtures in one job, some Kohler fixtures, if he would use another make of lavatories. It was a horse trade. As you will see a little later, that was rather typical of Mr. Archambeault's approach.

He would get part of the pie. Mr. Archambeault said, "You are going to hear bout this Link Co. deal later on, because we talked to Chuck Link and he was quite arrogant."

What he meant, of course, was that Mr. Link refused to support the boycott. Then on January 11, 1956, two pickets appeared in front of the Link Co. and they were then joined by John Archambeault of the UAW. At a meeting of the journeymen plumbers local a list of of the people who had crossed the Link picket line was read off, and some were taken to task.

Then the Link Co., after some consultation, started an action in the circuit court for an injunction, which was granted.

Then because of some doubt as to the legality of that injunction under the Federal preemption doctrine, proceedings were begun before the NLRB.

Charges were filed with the regional office in Detroit. And, again, the proceedings ended in a consent order.

The UAW was not made a defendant in that proceedings because at the time the case was filed, it was not known that Mr. Archambeault was the one who played the role that he did. That was ascertained later. We have one exhibit here which establishes Mr. Archambeault's participation.

It is the Michigan CIO News, Jackson County edition, for January 24, 1957.

The CHAIRMAN. That may be made exhibit 115.

(The document referred to was marked "Exhibit No. 115" for reference and may be found in the files of the Select Committee.)

Mr. CHASE. It tells of the boycott of the Link Co. It refers to Leo Brannick, the Journeymen Plumbers business agent. Then it gets down to John Archambeault, and identifies his participation by name.

A similar instance occurred at Springfield, Ill., in the case of Booth and Thomas, Kohler distributors there.

In September of 1956, a Mr. John Collins, a UAW representative from Chicago, and a Mr. Francis Smith, the president of the UAW Local in Springfield, called on Booth and Thomas. Mr. Collins handed Mr. Thomas a form letter, which he requested him to send to the Kohler Co., asking the Kohler Co. to give in to the UAW. He said

that a lot of similar letters were being solicited, and the purpose was to force the company, the Kohler Co. to give in. Mr. Collins told Mr. Thomas that if he didn't write the letter, his place of business would probably be picketed. And when Mr. Thomas—

The CHAIRMAN. A lot of this is hearsay testimony on your part, isn't it?

Mr. CHASE. It is hearsay as far as my personal knowledge is concerned, except that these things were reported to me.

They were the basis of action by me in cooperation with these customers.

The CHAIRMAN. I just wanted to get that point corrected in the record. You are testifying to a great deal of things here that have been reported to you in the course of this boycott fight?

Mr. CHASE. They have been reported to me in the course of business, and I have worked with that information and relied on it in taking action with respect to it.

The CHAIRMAN. And at times where there is hearsay or something, you have had it confirmed by contact with people who actually knew the facts?

Mr. CHASE. In my prepared statement I indicated the source.

Mr. Thomas refused to send this letter to Kohler Co., which Mr. Collins, the UAW representative insisted on, and true to Mr. Collins' threat or promise, as you please, Booth and Thomas was picketed, commencing on the morning of September 17, 1956.

We have here, which I would like to offer as an exhibit, a copy of a letter which Mr. Thomas sent to his two Senators, Senators Dirksen and Douglas of Illinois, and his Congressman, Peter Mack. This one happens to be the one to Congressman Mack, in which he gives his account of that instance.

The CHAIRMAN. That may be made exhibit 116, for reference only.

(The document referred to was marked "Exhibit 116" for reference and may be found in the files of the select committee.)

Mr. CHASE. I have another exhibit, the Springfield UAW Broadcaster of September 1956, which shows the pickets in front of the Booth and Thomas place of business. It also shows right next to it UAW representatives taking down a Kohler sign from the front of a plumber's place of business close by Booth and Thomas.

The CHAIRMAN. That paper may be made exhibit 117 for reference.

(The document referred to was marked "Exhibit 117" for reference and may be found in the files of the select committee.)

Mr. CHASE. No legal action was instituted in the Springfield case, because the picketing soon stopped. I may say this, I may interpose it here, that our attitude toward litigation throughout the boycott has been that it is a last resort.

We don't start litigation to punish someone vindictively for what has happened.

Any action we take by way of litigation or otherwise in connection with the boycott is geared to the future. We are interested in the next job, not the last one. And if we can clear up a situation persuasively and without litigation, we do it.

(At this point, the following members were present: Senators McClellan and Curtis.)

The CHAIRMAN. I think it has been indicated here in previous testimony that they have stopped this boycotting or picketing and so forth of your distributors; is that true or not?

Mr. CHASE. I think that testimony, Senator, was with reference to the following of trucks.

The CHAIRMAN. I know they stopped that, and I understood they had stopped this picketing and so forth of the distributors. Am I correct or am I in error?

Mr. CHASE. There has been no very recent instance of it, I mean within the last few months. We never know when they have stopped something because it may start again. There has been none within the last few months.

The CHAIRMAN. The Chair would make note of the fact that I have just received a news release, and you said we never know when something is going to start.

I thought vandalism stopped out there, but I find here that a couple of witnesses who testified a day or two ago here, one of them who testified here has had his picture window broken again, and something thrown through it, and another instance where they threw and missed the window and hit the house. So maybe you are going to have some more vandalism out there.

Mr. CHASE. We have never been sure when anything stops. Now, in the case of Booth and Thomas, the effect of that picketing continued long after the picketing stopped. Mr. Thomas so states in the letter which has been put in evidence.

Another instance of a little different twist was St. Luke's Hospital in Milwaukee. That was ostensibly a case of citizen picketing as they call it. The pickets ostensibly were not representing any union, and they were just a lot of irate citizens who happened to get there together some morning, all equipped with signs, and how it happened nobody knew, and they were just citizens.

The trustees of St. Luke's Hospital had specifically requested the architect to specify Kohler fixtures, and he had done so, and the plumbing contractor, the Knab Co. had purchased the fixtures, and was prepared to install them.

In September of 1956, according to information from the Knab Co., Mr. Anthony King, the business manager of plumbers local 75 in Milwaukee told Knab Co.'s superintendent, Mr. Sharp, that if Kohler material were used on the St. Luke's Hospital, he would prevent it even if it meant breaking the Knab Co. That was Knab Co.'s report to us.

On October 12, Mr. Knab requested journeymen members for that job, and he was informed by Mr. King that none were available to install Kohler fixtures. Then on October 15, the citizen pickets appeared at St. Luke's. They claimed to have no connection with any union.

Curiously, although this was ostensibly not a union picket line, the union building tradesmen refused to cross it. It seemed to us that if it were not a union picket line, it should have made no difference to them. Anyway, they crossed it.

On October 19, at a meeting of the citizens pickets was held at Club Orio in Milwaukee according to the Milwaukee Journal of October 20, 1956. Raymond Majerus, UAW International representative addressing the meeting, and playing a prominent part.

The Knab Co.'s own journeymen plumbers were perfectly willing to return to the hospital and go on working provided there were no pickets there, and provided there would be no restraint by their own union. On October 31, the hospital sued these citizen pickets, taking them at their word that they were not union men and therefore not entitled to the protection of labor laws, and just a lot of citizens, officious intermeddlers conspiring to interfere with the lawful business of the hospital, which is an offense under the statutes of the State of Wisconsin.

Immediately after that, the next day in fact, the general contractor negotiated an armistice for "emergency work" in order to prevent damage to the building, and all of the building tradesmen except the journeymen plumbers went back to work.

Mr. Knab was told by Mr. King that he had looked over the job and he could find no plumbing work which needed doing. A couple of days later, however, without any further conversation with Mr. Knab, a journeyman plumber and apprentice showed up and went to work.

These citizen pickets who were made defendants in this lawsuit by St. Luke's Hospital were examined adversely under oath, under the discovery statutes of the State, and they all took the Wisconsin equivalent of the 5th amendment. The matter was referred to the circuit court for a contempt citation, and the case stands right there.

Now, there were no further developments at the hospital building site, and the 20-day armistice expired, and the construction went right on and the Kohler fixtures were sent and the hospital is in operation.

Senator CURTIS. Might I ask a question right there. These people who declined to testify, were they residents of the area?

Mr. CHASE. They were residents of Milwaukee; yes, sir.

Senator CURTIS. That is all.

Mr. CHASE. Now, the intimidation of customers has taken other forms. We feel that any visit by a union representative to a distributor or plumbing contractor, or journeyman plumber or architect or builder and owner has an intimidating effect.

You cannot isolate the conversation that is used from the whole context in which these people do business. Most people, as I indicated earlier, resent the implications of this sort of threat and they resist it, but some succumb to it.

I have, in my prepared statement, some examples of that. At Atlanta, Ga., just last May, Thomas Starling, the Atlanta UAW representative, called on a Kohler distributor, not just 1, but 3 as a matter of fact, and threatened to put them out of business if they continued handling Kohler products.

Now, he later claimed that he wasn't making a threat, he was merely predicting what would follow as a natural consequence of their conduct. But the threat was made. In one case it was made to a woman who is the president of the business.

In Chicago, Peter Gasser, one of the Kohler strikers who was employed by the UAW now as a boycott promoter, was accompanied by Elmer Gross, another striker, and during the spring of 1957 Mr. Gasser repeatedly telephoned a plumbing contractor by the name of Albert Bower and his wife, using very crude language, and they became quite frightened.

In May of 1957 Mr. Gasser called on John Fairbairn, a mechanical engineer, and this partly answers one of your questions, Senator McClellan. When Mr. Fairbairn was told by Mr. Gasser that he might encounter construction difficulties if he used Kohler products, Mr. Fairbairn told Gasser he intended to continue and he was quite indignant at the interference.

The same thing happened in the case of a Bell Telephone building at Barrington, Ill., where Gasser phoned Robert Richey, the Chicago architect, and told him that the use of Kohler fixtures might slow up completion of the job.

He also told that to the plumbing contractor, and both of them stood their ground and no trouble ensued.

I will say this, that almost without exception where a plumbing contractor takes a strong stand and says, "I am going to run my own business," no trouble does follow. It is the contractor who is just a little timid, and doesn't feel that he can quite take the risk and backs away from it who has the trouble.

There were several other instances reported. There is the case of the Shukis builders where Peter Gasser—

The CHAIRMAN. All of these are covered in your prepared statement, Mr. Chase?

Mr. CHASE. They are so far; yes, sir.

The CHAIRMAN. I am not going to limit your testimony at all, but I think we would have been probably expediting it by just letting you read your prepared statement to start with.

Mr. CHASE. I am abbreviating it considerably, Mr. Chairman.

The CHAIRMAN. All right, go ahead.

Mr. CHASE. There was an instance at Wilmette, Ill., where Peter Gasser visited a job and gave journeymen plumbers the impression he was from the journeymen plumbers' union. They called him on it and he admitted he wasn't and that job was completed.

In Detroit this same John Archambault, international representative about whom I have testified a little earlier, called on several Kohler customers, Linwood Paper & Supply Co., and Andrews, and Anderson, and Warren, all Kohler distributors and told them much the same thing, that they were tracing every Kohler truckload, and they knew the contents and they knew where it was going, and they were going to follow up with architects and builders and owners and just anybody at all, and make it very, very difficult for these distributors to handle Kohler products.

Mr. Mazey came into the picture in connection with a Kohler electric plant distributor, who was showing his Kohlerware at a boat show, and Emil Mazey and Donald Rand put considerable pressure on this company to discontinue handling Kohler, and even threatened picketing the display.

At Phoenix, Ariz., a UAW representative by the name of Nicholas Dragan, accompanied by two others, called on Phoenix Pipe & Supply Co., a Kohler distributor, and said they were going to make every possible effort to stop the sale of Kohlerware in Arizona. There again they said they were tracing each car leaving the Kohler plant, and would call on architects, builders, and others, and so on.

At Port Washington, Wis., in May of 1955, Emil Mazey and Robert Burkhart of the UAW called on the school board and told them they had better not install Kohler fixtures in the new school that was being built.

The following October, vandals caused extensive damage to the gymnasium, water damage, and union spokesman publicly denied responsibility. We don't know whether they were or not.

Now, there is another type of activity which I just referred to briefly, and it is not covered in my prepared statement, and that is this matter of tracing cars. I would like to offer two exhibits in connection with this: The first is a copy of a form letter which Donald Rand sent out to unions all over the country, and I will read just the pertinent sentences:

On the attached list of known Kohler Co. distributors there is designated the number of railroad car shipments which were recently made to these companies. Will you kindly check the distributors in your area and find out why they have purchased goods which are on the unfair list of the AFL-CIO?

Now the significant thing about that is that no one can determine from the outside of one of these boxcars where it is going, and there-

is nothing to indicate it. There must be a confidential source of information, either in the Kohler Co. or in the railroad office.

Another exhibit, part of the same program is a mimeographed sheet which was distributed by UAW, Local 833, Sheboygan. In general it calls for a boycott of Kohler products, and soliciting the aid of union members in stopping the sale of Kohler products by the Kohler distributor whose name in each case has been typed on the mimeographed sheet. In this case it is the Glick Supply Co., of Marshalltown, Iowa. At the bottom of the sheet is this statement:

NOTE.—Above information should be used with good judgment, otherwise we may jeopardize our confidential source.

We offer that in evidence.

The CHAIRMAN. Those may be made exhibits Nos. 118 and 119.

(Documents referred to were marked "Exhibits Nos. 118 and 119," respectively, for reference, and may be found in the files of the select committee.)

The CHAIRMAN. Let us move along as fast as we can.

Mr. CHASE. To return again to the journeymen plumbers, they are the mechanics, of course, who install plumbing fixtures, and they are employed by plumbing contractors. There has been indication from time to time of UAW efforts to enlist the journeymen plumbers in the boycott effort. I may say that we have no evidence that the journeymen plumbers' international has instituted any secondary boycott, and we have no evidence on the international level.

According to newspapers in 1954, they approached the late Martin Durkin and tried to enlist his help, and he refused, saying, "We never do that."

In December of 1955, immediately after Peter Schoemann was elected general president of the journeymen plumbers, he gave the UAW a letter in general support of the boycott but the letter contained the caution which appears at top of page 29 of my prepared statement, and I would like to read it for the record, just that one paragraph.

I caution you, however, that during the course of your employment you must handle and install all Kohler products. If you should refuse to handle and install Kohler products on the job, such actions would be a secondary boycott in violation of the Taft-Hartley Act and other State laws. Likewise, you cannot and must not request employees of other employers not to handle and install Kohler products during the course of their employment.

The international's actions have been pretty much consistent, I believe, with that paragraph.

Just last spring the striking local, in explaining to their members why journeymen plumbers could not assist with the boycott, included this statement in the Kolerian, their weekly paper, of April 5, 1957:

If the plumbers union were to refuse to install, it would be a violation of the Taft-Hartley Act secondary boycott provisions. A plumber as an individual can refuse to install Kohler but if he gets fired for it there is nothing his union can do for him.

Well, that is pretty good advice. But we believe that under the doctrine of the Genuine Parts case handed down by the NLRB late last fall, if a union advises its members that they don't have to install in a context where the advice is pretty much understood to be a direction that they follow it, that would be a violation of the Taft-Hartley Act.

We think it could be termed a concerted individual refusal. Those of us who have some little familiarity with the antitrust laws hear of the doctrine of conscious parallelism. I think that this concerted individual refusal is akin to conscious parallelism.

They are individually doing the same thing in concert. A number of plumber's locals have not followed that advice, and have gone off the deep end of this boycott business, the secondary boycott sort of activity. I testified a little earlier that that might reach as many as a dozen or two dozen cases. One of the more serious localities at one time was Atlanta, Ga., where Mr. Starling, the UAW representative, is in charge of the boycott effort.

That started back in August of 1955, when the business agent for the local at that time, Mr. Harper, gave the plumbing contractors 90 days' notice that upon the expiration of the 90 days they would set no more Kohler fixtures.

Mr. Wilkinson, the Kohler Co. plant branch manager, talked to Mr. Harper and he said he could not do anything about it because the action had been voted by the local at a meeting and would have to be taken up there, and that was confirmed by another spokesman for the union.

After some of this effort to clear up the boycott by persuasion and conversation, it did get better, and then late in 1956 the business agents of the local went around to the plumbing contractors and told them they would encounter costly difficulties if they used Kohler fixtures, and a number of contractors became afraid.

Now, that threat would not have bothered them except in the context of the union hiring hall. Under the union agreement there, contractors had to go to the union to get journeymen, and contractors knew that if they got in bad with the local they might have a hard time getting journeymen.

That is what gave the threat an ominous term. There was a refusal to install, and following that on a Southern Railway job there was quite a hassle between the union and the contractor over that, and finally they permitted them to go ahead and install the fixtures there if we would agree not to use Kohler fixtures on any other jobs.

He was a young struggling contractor, just getting started on big work, and he did not feel that he could resist them. The thing finally came to a head in July of 1957 when a union steward on a job sent just three fixtures back to the Atlas Supply Co., a Kohler distributor, and a registered letter was sent to the steward telling him he would be held personally financially responsible for damages in any further cases, and we understand that this threat of litigation and other conversation about litigation was the subject of long meetings at the union hall, and at the present time there are quite a few plumbing contractors in Atlanta who are successfully installing Kohler fixtures on big operations, but it was a long, hard pull getting that.

In Detroit, Mich., there is another place where the UAW has succeeded in enlisting the support of the journeymen plumbers. There, too, there was a hiring hall through which the contractors must get their journeymen and while there has been no consistent boycotting by the journeymen plumbers of Detroit, there have been a number of instances.

John Archambault of the UAW addressed a meeting of the building trades, urging their cooperation in the boycott in January of

1956; Emil Mazey addressed a meeting of the plumbing contractors local and urged them to participate in the boycott. Then in February of 1956, just a few days after that, on a job being handled by Mechanical Heat & Cold, plumbing contractors, the journeymen plumbers said that they could not install Kohler because of requests by their local union.

Now, we have an exhibit we would like to present in connection with this. It is a letter which Donald Rand of the UAW sent out to all of the journeymen plumbers in Detroit, and on the letterhead of the Detroit local. Mr. Rand's letter is on the letterhead of the Detroit local.

Senator CURTIS. Of what local?

Mr. CHASE. The journeymen plumbers.

Attached to the letter was a Kohler boycott survey calling for detailed information on jobs where Kohlerware was being installed, and the letter requested the assistance of journeymen plumbers in the Kohler boycott effort.

The CHAIRMAN. That may be made Exhibit No. 120.

(Document referred to was marked "Exhibit No. 120" for reference and may be found in the files of the select committee.)

Senator CURTIS. May I see that exhibit?

(A document was handed to Senator Curtis.)

Mr. CHASE. A plumbing contractor in Detroit had the experience in 1956 of having his journeyman plumbers refuse to accept a truckload of Kohler material on a hospital job, and he had 2 other jobs going at the time, and he finally made a deal with the business agent of the plumber's local, under which he was able to install Kohler fixtures in 2 of them, but not on the third. The fixtures had been bought, and arranged for, and the buildings had been roughed in.

"Roughing in" means the pipes are in the wall to fit these particular fixtures, and there would be considerable expense involved in trying to change all of that.

Again in Detroit, the situation has improved more recently but there still are plumbing contractors there who are afraid to risk retaliation by the union if they handle Kohler fixtures. They even refuse to tell of their experiences in many cases.

At Dover, Del., we find another plumber's local which has cooperated closely with the auto workers. In that case we had a large air-base hospital, United States Air Force hospital, and over a period of time there was considerable difficulty with the business agent, a Mr. B. F. Kelley.

At times he would permit fixtures to be installed for which the roughing in was completed, and other times he would just say "No."

Finally, some Kohler fixtures were installed, and the balance of the job was completed with other makes. Mr. Kelley served notice that no more Kohler ware would be permitted on the base.

(At this point the following members were present: Senators McClellan, Mundt, Curtis and Goldwater.)

Kansas City rather parallels the Atlanta situation in that that has strong United Auto Worker locals, which seem to have gained the cooperation of the journeymen plumber's local.

The plumber's local there also operated a hiring hall through which the contractors must get their men, which gives the business agent considerable power.

In 1956, the business agent started threatening the smaller contractors, if they used Kohler fixtures, and many of them quit, changed to other makes. One contractor, a Mr. Paul Lovell, sent a truck-load back, after receiving a phone call from the business agent there and being told that he might have trouble installing Kohler fixtures if he tried to go ahead, he might have trouble getting journeymen.

Several others had the same experience. As late as October, last October, one of the plumbing contractors who had a job just out of Kansas City, at Fort Leavenworth, a junior high school job, phoned the business agent, Mr. Gorman, for clearance on using Kohler fixtures, and the contractor was told by the union office that Kohler fixtures were listed as not to be used throughout the country, and that local 8 didn't allow Kohler fixtures to be installed anywhere.

The plumbing contractor changed to another brand. I referred earlier to the Hartshorn Bros. picketing, the picketing of the Hartshorn Bros., a plumbing contractor in the Los Angeles area, and Hartshorn had other trouble in the San Fernando Valley, where local 761 of the journeymen members had jurisdiction. This seemed to be a pretty tough local. They made it very, very difficult for anyone to handle Kohler fixtures in that area.

There was a Palmdale housing project on which Ray Hackney Plumbing had the contract.

There, one of the business agents, according to Mr. Hackney, threatened to damage the fixtures if he installed Kohler. He talked about a blow torch, about a hammer, about dropping a hammer, and all that sort of thing. Whether the threat was a serious one or not, nobody knows, but the contractor was caused to cancel the order and return the fixtures that had been delivered to the jobbing house.

Milwaukee is pretty close to home, as far as we are concerned, and there the business manager of local 75 is Mr. Anthony King.

Local 75 has a hiring hall where the contractors must go for their journeymen, and the feeling in Milwaukee, as it has been reported to me is that a noncooperating plumbing contractor may get no journeymen and a noncooperating journeyman may get no work.

During the fall of 1956 the boycott in Milwaukee by local 75 was especially active.

I would like to offer in evidence at this time a bulletin of local 75.

The CHAIRMAN. That may be made exhibit 121.

(The document referred to was marked "Exhibit No. 121" for reference and may be found in the files of the select committee.)

Mr. CHASE. It is local 75's bulletin of September 1956, which contains this paragraph, the next to the last paragraph of the bulletin, and I will read just the one paragraph:

State Federation of Labor in convention August 23 adopted a resolution of active support of the Kohler strikers. Members of organized labor were called upon to do all in their power to influence people against the purchase of Kohler plumbing fixtures. It was pointed out that individual members of organized labor have a right to refuse to handle Kohler plumbing ware, and that they cannot be prosecuted for doing so. Quite a number of our members have informed their employers that they will not install Kohler fixtures, and are refusing to do so. Our attorney informs us that such action on the part of members is legal. As a citizen of this community, I wish to express my sincere admiration of those who are in this manner assisting the Kohler strikers.

The next bulletin of that local, 75, on October 1956, we would also like to offer.

The CHAIRMAN. We will make that exhibit 121A, since it is along the same line.

(The document referred to was marked "Exhibit No. 121A" for reference, and may be found in the files of the select committee.)

Mr. CHASE. I will read just one portion of exhibit 121A.

The A. F. of L., the UA Association, the A. F. of L. State Federation of Labor, and our local Federated Trades Council, at their recent conventions, have all gone on record by resolution to support the Kohler strikers. Yet some people seem to think that our members should be indifferent about the Kohler situation. People who do not belong to labor unions don't seem to understand the fealty one union extends to another.

The security of the labor movement is dependent upon the loyal support its individual members will render to other members who find themselves in distress. Recently two more of our brothers working for the plumbing contractor who has been awarded the plumbing installation at St. Luke's Hospital quit working on the site when they were requested to rough in piping for Kohler fixtures.

They did so voluntarily. At the present time, a group of citizens is picketing the new addition to St. Luke's Hospital. All building-trades men affiliated with the Milwaukee building and construction trades council have refused to cross the picket line, and the progress of the job came to a standstill.

Then a third exhibit in this series, illustrating the attitude of business agent of local 75, is an item in the Milwaukee Sentinel of Friday, October 19, 1956, which quotes Mr. King.

The CHAIRMAN. That may be made exhibit 122.

(The document referred to was marked "Exhibit No. 122," for reference, and may be found in the files of the select committee.)

Mr. CHASE. King—

pointed out that individual union men, as members of organizations on record in support of the boycott have strong feelings over the fact that money contributed to the hospital project by labor through the united hospital fund is being used to purchase Kohler products.

I may say that in Milwaukee they also threatened to boycott the community fund.

I will continue the quote.

"Under the law, we business representatives can't tell any one he can't go through a picket line," King said. "But we can tell him what we would do—as individuals—if we were confronted with the same situation. That's all we can do legally.

"We don't want to get into any legal entanglements."

When members of his union called for advice, King said he advised them to use their own judgment, and then adds that he, as an individual, would honor such a picket line.

"Not many of our men call our office," King said. "They are informed. They know what's expected of a union man."

It is our belief that under the doctrine of the Genuine Parts case, this exhortation to individual action, coupled with the power which the writer of the bulletin has through the hiring hall and the control over the jobs of his members, actually constitutes inducing and encouraging within the intent of the Taft-Hartley Act.

We think that that is a good example of concerted individual refusal. This policy was carried out all through the months when these bulletins were appearing. At the Mitchell Air Base job in Milwaukee—

Senator MUNDT. Before you leave the Milwaukee case, the St. Luke's Hospital—are you still on St. Luke's Hospital?

Mr. CHASE. I covered St. Luke's Hospital while you were out, Senator. I will be glad to return to it right now.

Senator MUNDT. I am curious about one paragraph, and I want to ask you a question about it. If you have covered it, you can so state and need not repeat the ground.

On page 21 of your statement, I find this paragraph, under the heading St. Luke's Hospital, Milwaukee, Wis.

While this was ostensibly a case of spontaneous "citizens picketing" by volunteers, Raymond Majerus, UAW international representative, was active in organizing it.

Have you gone into that particular phase?

(At this point, Senator Ervin entered the hearing room.)

Mr. CHASE. I did, Senator, and I put in evidence an exhibit, at least I referred to it, a meeting of the citizen pickets held at a tavern, the Club Orlo in Milwaukee, which was addressed by this Raymond Majerus.

Mr. Majerus also called on officers of the hospital with respect to this. He was very active in connection with it all the way through. It was ostensibly just a bunch of citizens, but the UAW seemed to have a considerable preoccupation with it.

Senator MUNDT. I think that is particularly significant. If you have the documentation put in as an exhibit, that is fine, because it runs contrary to earlier testimony we had had from some of the union officials and from the coordinator of the boycott activities in Sheboygan, which indicated that the UAW, per se, was not trying to bring about the picketing which was construed to be illegal.

Mr. CHASE. I find that we did not introduce that exhibit. I referred to it but did not introduce it.

Senator MUNDT. I think we should have it in the record if you have it available, because this is a very key aspect of the whole thing, if citizens spontaneously decide to picket a place, we certainly don't want to hold the UAW responsible for something that they didn't instigate.

But on the other hand, if the UAW international representative, Mr. Majerus, instigated it, that is a horse of an altogether different color, and we would like to have the evidence of whatever it is.

Mr. CHASE. This is a clipping from the Milwaukee Journal of October 20, 1956, regarding this meeting at Club Orlo, this tavern which was addressed by Mr. Majerus. I have seen in the hearing room the Knab Co.'s superintendent who handled these jobs, the St. Luke's Hospital and the Mitchell Field job. I presume he is going to testify.

He can probably tell you, if he does, of his conversations with Mr. Majerus with respect to this very same job.

Senator MUNDT. What is that gentleman's name?

Mr. CHASE. The witness I have seen in the courtroom is Mr. Sharpe, who was superintendent of the Knab Co.

Senator MUNDT. Is Mr. Sharpe going to be a witness?

Mr. KENNEDY. He is.

Could I just clarify this?

You state that Mr. Majerus organized this so-called spontaneous picketing?

Mr. CHASE. Yes, we think he did.

Mr. KENNEDY. Excuse me?

Mr. CHASE. We think he did.

Mr. KENNEDY. You said, "While this was ostensibly a case, he was active in organizing it."

Was he, in fact, active in organizing it?

Mr. CHASE. We think he was from the circumstantial evidence which has come to us, this Club Orlo appearance the conversations he had with the St. Luke's Hospital people in advance of the pickets appearing.

Mr. KENNEDY. Do you have any information other than the conversations that he had, which these witnesses will testify to, that he was actually active in organizing the picketing, which is what Senator Mundt was asking you about, and which you state here in your statement at page 21? Do you actually have any facts that he was active in organizing?

Mr. CHASE. That is inferred from the facts that I have stated.

Mr. KENNEDY. I interviewed Mr. Sharpe, and it might very well be that he did do that. But I don't know of any—

Mr. CHASE. I have no direct evidence that Mr. Majerus organized this citizen picketing. The citizen pickets themselves took the Wisconsin equivalent of the fifth amendment when they were asked about this, or perhaps that would have come out. We have no direct evidence beyond what I have stated here.

The CHAIRMAN. What do you mean by the equivalent of the fifth amendment? I don't understand the Wisconsin equivalent?

Mr. CHASE. Under the State law, witnesses have certain rights which parallel those of the fifth amendment.

The CHAIRMAN. They still have the fifth amendment right, in State, municipal, county, any tribunal.

Mr. CHASE. They have the fifth amendment and they have in addition to it the parallel provisions of the Wisconsin laws. They have both.

The CHAIRMAN. I don't think a State provision in its constitution could add anything to the Federal.

Mr. CHASE. I don't think it adds anything. The point is that they refused to testify.

The CHAIRMAN. In effect, they took the fifth amendment and took it under a different name, under the State law?

Mr. CHASE. Exactly.

The CHAIRMAN. That is what it amounts to?

Mr. CHASE. Yes.

The CHAIRMAN. All right.

Mr. CHASE. They refused to testify on constitutional grounds.

The CHAIRMAN. You used that expression 2 or 3 times.

Mr. CHASE. I used it because they didn't make specific reference to the fifth amendment.

The CHAIRMAN. But they made reference to the State provision; is that correct?

Mr. CHASE. That is correct.

Senator MUNDT. Have you seen a transcript of those proceedings, or were you there and can you tell us the nature of the questions on which they took recourse to the fifth amendment or its Wisconsin equivalent?

Mr. CHASE. I did not see the transcript. I was told that by the attorney for the hospital, who conducted the examinations, and it was reported fully in the public press.

Senator MUNDT. Were they asked questions on this instant subject. Namely whether or not Mr. Raymond Majerus was active in instigating the strike, in organizing it, and whether his activities or the UAW had any relationship to their picketing?

Mr. CHASE. They refused to testify with respect to anything pertaining to the St. Luke's Hospital job. They were asked who sent them there, who arranged for it. I don't know what they were asked about Mr. Majerus specifically.

Senator MUNDT. They apparently were asked questions which, had they answered them, would have either implicated Mr. Majerus or somebody else in the event somebody sent them, if they were asked a question of who sent them there. They were asked that question?

Mr. CHASE. I have the clipping here which I would be happy to put in evidence supporting this.

The refusal was by their attorney. I would like to read these 2 or 3 paragraphs, and then I will offer this in evidence.

The CHAIRMAN. Offer it now and then read it.

Mr. CHASE. This is a clipping from the Milwaukee Sentinel of November 13, 1956.

The CHAIRMAN. That may be made Exhibit No. 123.

(The document referred to was marked "Exhibit No. 123" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Now you may quote from it.

Mr. CHASE (reading): Their name, age, address, marital and family status was the only information two witnesses would give Monday afternoon at a discovery examination in the recent picketing at St. Luke's Hospital.

Court Commissioner Walter Schinz said he would certify them for contempt of court and the examinations were adjourned pending a court ruling on his decision. Edward S. Davis, Sr., 42—

the address is given

Clyde P. Roethe refused to answer on advice of their attorney, Leonard S. Zubrensky.

Lawrence C. Hammond, Jr., hospital attorney, confronted both men with photos of the pickets carrying signs protesting installation of Kohler fixtures at the \$1,700,000 hospital, and asked them to deny they were on the pictures. Both men said "I refuse to answer." The witnesses also refused to say where they were employed, if they were union members, whether or not they picketed the hospital, who hired them to picket, and how much they were paid. Attorney Hammond droned through identical questions with both witnesses, who were examined separately. After each refusal, Commissioner Schinz murmured, "same ruling," referring to his contempt citation.

Then they went to some earlier witnesses. The section of the Wisconsin State Constitution which they cited was article I, section 8 of the Wisconsin Constitution.

The CHAIRMAN. Are there any further questions?

Have you anything further?

Mr. CHASE. Just a bit more on Milwaukee and that will conclude this. I mentioned the Air Force Reserve Training Center at Mitchell Field, where two journeymen plumbers refused to install Kohler fixtures, saying that Mr. King had advised them not to. The fixtures were installed by the transfer of journeymen plumbers from another job. In connection with a dormitory project at Marquette University, the plumbing contractors, Wenzel & Henoch, were told by a com-

mittee of the Milwaukee Building Trades Council that Kohler fixtures were not to be used, and there is again a suggestion that citizen pickets would appear if they were used.

The contractor had a requisition for 6 journeymen plumbers on file at the hiring hall for at least 2 months but had not received any men.

On that job there was no picket line, citizen or otherwise, and Kohler fixtures were used.

(At this point, Senator McClellan withdrew from the hearing room.)

Mr. CHASE. Some plumbing contractors in Milwaukee continued to be fearful of using Kohler fixtures because of the implications of the hiring hall. However, the situation there has vastly improved, and it is not nearly what it was.

Now with regard to the connection of the UAW with this boycotting in Milwaukee County, we have here, and would like to offer in evidence, a letter written by Leo Breirather, the coordinator of the boycott for local 833, to all journeymen plumbers in Milwaukee County.

I will offer that at this time.

Senator ERVIN. That will be made an exhibit.

(The document referred to was marked "Exhibit No. 124" for reference and may be found in the files of the select committee.)

Mr. CHASE. After acknowledging what he calls the wonderful support received from officers and members of local 75 in the campaign to stop Kohler sales in the Milwaukee area, Mr. Breirather says:

We recognize that many of us have suffered personal hardship by exercising your rights as individuals to refuse to install Kohler products. As a result of our consumer boycott, Kohler products are now almost nonexistent in Milwaukee County.

We greatly acknowledge the courtesy and cooperation of the officers and members of local 75 and Brother Tony King, business manager.

We believe that that letter, its reference to the refusals to install, characterizes the so-called consumer boycott which Mr. Breirather mentions in the same paragraph of his letter.

We think that it indicates the object of the boycott by the UAW in Milwaukee County, that the refusals to install were part of that object, and that those activities, including this letter, constituted an inducing and encouraging of the journeymen plumbers to refuse to handle Kohler fixtures. The last situation to which I would like to refer is at Phoenix, Ariz.

I testified earlier about, I believe, UAW threats to the Phoenix Pipe & Supply Co., the Kohler distributor there, of trouble if they tried to handle Kohler fixtures, or continued to handle Kohler fixtures. Plumbers local 469 has jurisdiction there.

(At this point, Senator McClellan entered the hearing room.)

Mr. CHASE. In April of 1957, about 10 Kohler bathtubs were delivered to the Villa del Coronado cooperative apartments in Phoenix for installation by the McCullough Plumbing Co., and Mr. McCullough's employees refused to install plumbing fixtures. He said he would go fishing and the others said they would go fishing if Kohler fixtures were installed.

The business agent of the local, Frank Profiri, made the same threat, that the men would all go fishing. There, again, I think we have a

good example of this concerted individual action, induced and encouraged by the union.

There was a partial refusal to install on that job, although a few colored Kohler fixtures were installed with the assistance of one owner of a cooperative apartment. The whole thing in Phoenix came to a head on two school buildings in the Roosevelt School District. The plumbers union there, and others, had been making threats to the plumbing contractor, Okay Plumbing, that Kohler fixtures were not going to go in, that that was to be a showdown. We were prepared to meet that sort of a situation.

Charges were prepared for filing with the NLRB. They were never filed because when the fixtures were delivered the threat did not materialize, and the fixtures were installed.

Journeymen, both plumbers and other building trades on the job, said that the subject had been discussed extensively at union headquarters, and when it became known that Kohler Co. was preparing for legal action, the journeymen plumbers were told not to refuse to install the fixtures. That job was completed. Those are a few examples of the 2 dozen or so cases where journeymen plumbers around the country, journeymen plumbers locals have taken boycott action.

I don't know how many journeymen plumbers locals there are in the United States. There are probably seven or eight hundred, and there are about 2 dozen of them that have caused us any trouble.

That is why we think that the vertical impetus for this is within the UAW, and the influence on the journeymen plumbers is at the local level. That is just a surmise on our part. I have testified earlier as to the effect of the boycott. I would be glad to answer further questions on that or anything else. We do believe that we have demonstrated that a company which wants to take a stand for principles in which it believes, and has the resources can do so, can do it successfully. As I testified earlier, a smaller company might have a very, very difficult time of it.

Senator CURTIS. Mr. Chairman.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. You made reference at one point in your statement about truckdrivers and others being frightened. When Mr. Johnson was here the other day, who was head of the follow-the-truck committee, he made reference at one point to the fact that this truck follower that they were following into restaurants, hotels and gasoline stations, was scared.

Did you observe the same thing when you made your followup on these activities that took place?

(At this point, Senators Mundt and Goldwater left the hearing room.)

Mr. CHASE. Yes. I think that fear was the principal characteristic of this boycott. There were not so many instances where a plumbing contractor was actually stopped from installing Kohler fixtures. There were a great many plumbing contractors who were just afraid to take the chance.

We have been told that by many, many of them.

Senator CURTIS. And has it been the smaller distributor and businessman who suffered more in this?

Mr. CHASE. Very definitely.

Senator CURTIS. Why is that, just briefly?

Mr. CHASE. Well, taking the distributor level first, the larger distributor, first of all, has the resources to be a little more independent in running his own business than a smaller one might be.

Senator CURTIS. Does he carry an inventory of several lines?

Mr. CHASE. Well, he may have, in some cases, some other lines which he can supply where the pressure is too great.

The smaller distributor almost always has just one line, and he has identified himself with that through his advertising and sales promotion over a long period of years, and he has a great deal to lose if he changes.

He has a big investment in goodwill.

Senator CURTIS. There is one other thing I want to ask you.

Some of these boycott activities quite apparently are in a category where they are a violation of existing law.

Some of the acts complained of in the field of boycott are not covered by existing law. What do you consider as a typical or a classic case of a boycott that you recite in here that is a violation of existing law?

Mr. CHASE. First of all, the cases or the instances where cases were actually commenced before the NLRB, the Link case, the Hartshorn case, the Booth and Thomas picketing was one—of course, the picketing stopped before proceedings could be instituted. I think the whole Atlanta situation would have justified legal action, but we felt constantly that we were making progress there without litigating.

I may say that by persuasion we can clean up a dozen or two dozen situations while we would be trying a lawsuit for one, so we don't sue unless we have to.

I think the whole Milwaukee situation in its totality would represent a violation of the Taft-Hartley Act.

Senator CURTIS. What are the remedies under that act?

Mr. CHASE. Well, first of all, an injunction. Well, first of all, a proceeding before the Board ending up in a cease-and-desist order. Second, an injunction proceeding, either the Federal district court or following action by the board with an enforcing order in the circuit court of appeals, such as in the clay boat case we have had reference to here. And then action for damages, of course.

Senator CURTIS. But that is all.

Mr. CHASE. That is all.

Senator CURTIS. In other words, my primary concern here is the concern of the public, and particularly the small-business man. If a small-business man is the victim of a secondary boycott under a set of circumstances that clearly constitute a violation of present law, there is no place he can turn for police protection or for an arm of the Government to come out and stop that activity, is there, without spending his own money and going to court?

Mr. CHASE. That is true in case of a boycott; yes, sir.

Senator CURTIS. Now, if a group other than a labor union, if a competitor or someone not connected with it would commit a trespass upon his property, he would have some police protection, wouldn't he?

Mr. CHASE. Yes, he would. It would probably be a violation of the antitrust laws, Federal if interstate commerce were involved, or State antitrust laws, perhaps.

Senator CURTIS. And in that case, the Government would proceed with the case after due investigation?

Mr. CHASE. Yes, sir; it would. Of course, you would also have individual rights.

Senator CURTIS. He wouldn't have to be the plaintiff, would he?

Mr. CHASE. He could be, but he wouldn't have to be.

Senator CURTIS. He wouldn't have to be. What would you regard as a typical or a classic case of a boycott that you experienced that is not now prohibited by law?

Mr. CHASE. Principally these threats to employers. In the Taft-Hartley Act, the secondary boycott provision relates to inducing and encouraging employees to take certain concerted action. I think the Taft-Hartley Act was probably intended to cover all secondary boycotts, when it was passed.

But it has been construed otherwise.

Senator CURTIS. The way it is construed, it fails to prohibit the applying of pressure on management?

Mr. CHASE. That is right. Although in two recent cases the labor board has found that in one case picketing and in the other case boycotting by a minority union, although applied to the employer, might also be inducing and encouraging the employees and a violation of their rights.

That is going up to the courts, in that, I suppose. But by and large, under the Taft-Hartley Act as it has been construed, threats may be made to employers with some impunity.

Senator CURTIS. In other words, the somewhat general line of demarcation of what is lawful and what is not lawful relates to who the pressure is applied upon; doesn't it?

Mr. CHASE. That is right.

Senator CURTIS. Do you agree with the position taken by the Journeymen Plumbers International—no, rather, it was the State federation—I will withdraw that.

On pages 29 and 30 of your statement, the Journeymen and Plumbers and Steam Fitters International of Kansas City, in 1956. They took a position, and it is referred to on the bottom of page 29 and the top of page 30,

If the plumbers union were to refuse to install, it would be a violation of the Taft-Hartley Act's secondary boycott provisions.

Do you agree with that?

Mr. CHASE. I agree with that; yes, sir.

Senator CURTIS. And the two sentences at the top of the next page:

A plumber as an individual can refuse to install Kohler. If he gets fired for it, there is nothing his union can do for him.

Do you agree with that?

Mr. CHASE. I think that is a correct statement of the law, provided it is strictly individual action. He can refuse as an individual to install. If he is fired for it, there is nothing his union can do to help him, except through the device of the hiring hall the refusing of employees on further jobs to the contractor. There is nothing legally they can do for him, no.

Senator CURTIS. Turning now to page 39, and quoting from the State Federation of Labor, which I assume was Wisconsin,

It was pointed out that individual members of organized labor have a right to refuse to handle Kohler plumbing, and they cannot be prosecuted for doing so. Quite a number of our members have informed their employer that they will not install Kohler fixtures and are refusing to do so.

Our attorney informs us that such action on the part of the members is legal.

That involves the same idea that I asked you about a bit ago. However, in this individual action, when does that become unlawful?

Mr. CHASE. When it is not strictly individual action. When it has been induced and encouraged by union activity. I think that under the doctrine of the Genuine Parts case, in which the union advised the members at a union meeting that individually they could refuse to handle this so-called hot cargo, and they understood, in the whole context, that that advice was more than advice, the Board found it to be a violation of the Taft-Hartley Act.

I think that the issuance of these bulletins, with this extreme pre-occupation with so-called individual action is calling not for individual action, but that is what you might call concerted individual action, which I think would violate the Taft-Hartley Act.

I think the advice of the attorney is assuming genuine individual action.

Well, I don't think it is, in most cases.

Senator CURTIS. And the courts have dealt with that problem a time or two; have they not? I am thinking of the contempt case against John L. Lewis, where Judge Goldsborough held there that while there was no direct vote to strike, in light of the fact that everybody stayed away from work at that particular time the absence of formal action on the part of the union did not relieve them from liability.

Mr. CHASE. I say he said that responsibility was not avoided by the use of a nod or a wink instead of the word strike. We think that here there has been a lot more than a nod or a wink.

Senator CURTIS. And that also must be viewed in this atmosphere of fear that has been established; is that correct?

Mr. CHASE. The fear, the fear of vandalism, the fear of retaliation by the plumbers' union through its hiring hall, the furnishing of journeymen, the fear of other retaliatory action.

Senator CURTIS. From the standpoint of a consumer, whenever there is a boycott, the consumer's choice of merchandise is lessened—isn't it?

Mr. CHASE. Very much so.

Senator CURTIS. Then doesn't it follow that his prices go up?

Mr. CHASE. That is right, to the extent that one competitor is hampered or removed from the market, and there is less competition. Presumably the price would be higher.

Senator CURTIS. The consumer is faced with more delays, isn't he, when more of his products are restricted and the selection is narrower? He faces more delays, doesn't he?

Mr. CHASE. He certainly does. Anything that interfered with the free flow of commerce is going to delay construction or whatever is involved.

Senator CURTIS. I followed very closely your colloquy with the chairman, and I think it pointed out, both the questions and the answers, very pertinent facts. Is it your conclusion that this boycott has been more damaging to the neutrals, the bystanders, you might say—they are bystanders so far as any controversy between 833 and the Kohler Co.—than it has either of the participants?

Mr. CHASE. That is right.

Senator CURTIS. I shall give further attention to your paper, and some of these cases I may follow up in my own study with facts beyond what you were able to cover here. I am intensely interested in the legislation relating to a secondary boycott.

It has been my observation over a period of a number of years that it is an action directed at consumers, at neutral businesses, and primarily small businesses.

There are quite a few of them that I know who have gone completely out of business as victims of boycotts emanating from a labor dispute in some far removed place.

That is all, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Chase. Call the next witness.

Mr. RAUH. Mr. Chairman?

The CHAIRMAN. Mr. Rauh.

Mr. RAUH. I believe I mentioned this to you before, that we had also prepared a memorandum. I have some factual material. It seems to me that the company has been given all day to state hearsay and legal conclusions, and we ought to be given, say, 10 minutes now to state our position on their legal conclusions.

When I tried to put in roughly the same material, Senator Mundt objected and the material was not received. It seems to me that I ought now to be given the opportunity for at least a few minutes, at least, to refute some of the statements.

Mr. Chase admitted it was all hearsay. I would like a chance now to state our legal position on some of the hearsay that Mr. Chase has put in here, sir.

The CHAIRMAN. Well, very much of Mr. Chase's testimony was hearsay. He also pointed out some positions they took with respect to acts, that either he had personal knowledge of or that had been reported, which he felt he had confirmed by inquiry and investigation. He expressed some opinion as to whether they violated the law or didn't.

Is there any objection to hearing Mr. Rauh for 10 or 15 minutes?

Senator CURTIS. I would like to ask this question: This material that you referred to by Mr. Mundt, you were sworn in putting the material in?

Mr. RAUH. Yes, I was sworn. I put in some documents, but I was not allowed to put in the memorandum which we had.

The CHAIRMAN. The memorandum that you had, as I recall, was a brief stating your position with respect to the law.

Mr. RAUH. Sir, the only difference between my memorandum and Mr. Chase's statement is that he says, "Prepared statement by Lucius P. Chase", and I said, "Memorandum". I made a bad mistake. I should have said prepared statement.

I made a mistake. They both have hearsay and legal conclusions. I made a mistake, and I will be guided by it. I would appreciate the 10 minutes now, sir.

The CHAIRMAN. The Chair does not want to deny to either side any right or privilege he grants to the other. So if you will make it very brief, unless there is objection on the part of the committee, we will hear you.

Senator CURTIS. No objection.

The CHAIRMAN. If there is no objection, you may have 10 minutes, and, I may stretch it to 12 if necessary.

TESTIMONY OF JOSEPH L. RAUH, JR.—Resumed

Mr. RAUH. Mr. Chairman, and members of the committee, I would just like to deal now with some of the factual statements in here quickly. On page 7 there is a statement referring to forged signatures. We have checked with Sheboygan. There were some 2,000 signatures on there, and, of course, it would have been ridiculous for anybody to have gone out and forged a signature to make 2,001. I am informed by the people there who got this up, the Veterans group, that there were no forged signatures.

Senator CURTIS. I would like to ask a question, Mr. Chairman.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. Have you checked with the specific individuals named by Mr. Chase?

Mr. CHASE. No, sir, I haven't had time, sir. I have tried to make a quick check of the facts that I have. I do hope that since I only have 10 minutes, you will accord me the privilege of using the 10 minutes. After that I would be happy to answer questions. But if I am to meet the chairman's 10-minute deadline, I am going to have an awful hard time, if I am to be stopped.

I am willing to, but it seems to me that the Chair's purpose in speeding it up is going to be awfully difficult.

The CHAIRMAN. All right, proceed.

Mr. RAUH. On page 21, Mr. Chase made the suggestion that the UAW had some connection with the citizens picket line.

I would like to point out that that has been denied, and that the only witness, Mr. Davis, who was called for this purpose, informed me this morning that nobody on the picket line as far as he knew, including himself, had been in any way urged to go there by the UAW, and I understand that Mr. McGovern has excused Mr. Davis, so I presume he was satisfied that Mr. Davis was telling the truth.

With respect to page 27, where the suggestion is made that Mr. Rand stated that he would picket the Michigan Generators Services at the Detroit Boat Show, Mr. Rand informed me at noon that he never made that statement.

The CHAIRMAN. Is Mr. Rand here?

Mr. RAUH. He is available, and he has been living here for 5 weeks and he is available at any time. But I am trying quickly to go through these.

The CHAIRMAN. I will give you time. He is the Don Rand that has been testifying from time to time, and referred to quite often?

Mr. RAUH. Yes. He is here and he is ready.

Senator CURTIS. May I ask the Chairman something and the time not taken out of his time?

The CHAIRMAN. All right.

Senator CURTIS. When Mr. Rand was on the stand, I did not know that he was an active leader in the boycott. He was the superior of the man who testified here at some length in regard to that.

Since he is here in town, could we at a later time have him for a brief cross-examination?

The CHAIRMAN. I would think that we can.

All right, proceed.

Mr. RAUH. On page 28, the amazing statement is made that in May of 1955, Emil Mazey, UAW international secretary-treasurer, visited a school job in Portland, Wash., and did something about their Kohler products.

Mr. Mazey's office records show that he was not in Wisconsin any time during the month of May 1955, and it shows all of his trips and he was not there.

Now, the reason I have cited these four examples is that any statement, hearsay statement that is so full of errors as the four I have already given you, and particularly this last most unfair attack on Mr. Mazey because he wasn't even in Wisconsin, evidences, it seems to me, the mistake of this committee in taking a statement so full of hearsay.

The CHAIRMAN. The Chair appreciates that it is possibly a mistake. But I am in a position here where if I don't let it in, I am charged with bias and prejudice toward one side or the other, and I don't have any either way. If one lets in a little hearsay, we will hear a little hearsay from some other source. Proceed.

Mr. RAUH. Thank you, sir. I hope the Chair will recognize that most of my remarks have been directed against three members of the committee, and that I, too, share the belief that the chairman is trying to be fair under difficult circumstances.

The CHAIRMAN. I am glad to have the compliment, but let us move along, and I would rather make progress than be complimented.

Mr. RAUH. I will summarize the statement here of Mr. Chase as a document which says the UAW is doing awful things, but it doesn't hurt. That seems to be the result of 44 pages that I have heard this morning.

Now, there are certain legal propositions I would like to call your attention to. On page 12, Mr. Chase states or he read this: "Neutrality is the ostensible position for public officials to take regarding a labor dispute."

We challenge that, and we believe the whole history of the last 25 years is that governmental neutrality toward labor conditions is contrary to the way governmental policy has worked.

The CHAIRMAN. What do you mean by that neutrality? My position is that I would be neutral. I would want the law enforced, and I would want to search to find out whether new laws are needed to keep things on an equitable and fair basis. But just because a union decides to strike, that is no reason why I should immediately take sides with the union and say, "I am against the company." I can't figure that one.

Mr. RAUH. I would like to explain, sir, that more goes into the deciding of whether a governmental agency should buy a product than the cost.

For example, today the Vice President of the United States is chairman of a committee whose purpose it is to see that contracts do not go to people who do not use fair employment practices in hiring. I only cite that to show that when a governmental body contracts to buy products, much more goes into the contract than just the cost.

I think by the same token there is a good deal to be said for the proposition that when an unfair labor practice has been committed, the Government won't assist the person who has committed the unfair labor practice.

It is not the strike, Mr. Chairman, that would cause the government to act, any government, city, State or National. It is the fact of an unfair labor practice which might cause them to act, and I would analogize that to the situation you have in, say, the Contract Compliance Committee of the Vice President.

I don't make a major Federal case of this, but I simply point out that neutrality is not always the role of Government. The Government is not neutral on certain policy issues where they do lend the power of Government purchasing to carry out certain policies. I mentioned one, but there are undoubtedly others.

Now, the next point I would like to make is the question about neutrals generally, about the strike hurting neutrals. Of course a strike and a boycott hurts neutrals. When we go on strike in a city, any union, the grocer is hurt because there is less money for the workers to spend at the grocery store.

When you go on a boycott, someone is bound to be hurt but in a sense they are allies. The distributor is an ally of the Kohler Co., and certainly we have a right, and this was the next point I wanted to make, we have a right as a union to tell our story to the public and urge them not to deal with this distributor. Indeed, it seems to me, that under the Supreme Court's decisions we probably have a constitutional right of free speech, at least by leaflets, to tell everyone in the area not to deal with the Kohler distributor.

In other words, if your committee were considering, as I think Mr. Chase said, some legislation which would prevent one from urging people not to deal with a distributor, I doubt very much, sir, whether you could constitutionally prohibit a union which is on strike, or anyone else from urging people by leaflets not to buy products from a particular distributor.

The CHAIRMAN. Would you grant the same liberty of speech to the company or to management, whenever people walk out on a strike, to advertise "Here is a list of strikers. Don't employ them, they will give you trouble"?

Mr. RAUH. I think that is a far different circumstance, sir; the blacklist which has been used—and actually they have done that, and some of our people have been blacklisted. But I don't consider that a blacklist.

The CHAIRMAN. Does that prevail in this instance, and has the Kohler Co. blacklisted strikers?

MR. RAUH. Some of our employees told us that they could not get jobs because of the fact the Kohler Co. pressure in the area was preventing them. We could probably produce 1 or 2, and I have not personally seen that.

THE CHAIRMAN. What I was trying to determine, do you charge that the Kohler Co. has actually been active in trying to prevent strikers from getting jobs?

MR. RAUH. I have had individual instances, but I wouldn't make that charge, and I don't have enough evidence to make such a charge.

THE CHAIRMAN. I am just trying to get a little balance of equity here. If the striker has a right to go out and try to induce people not to use the product of the company, would the company have the right to try to induce people not to hire the strikers?

MR. RAUH. Certainly not, sir. Ever since 1914, the laws of the land have been very clear.

THE CHAIRMAN. I am talking about a matter of equity and justice.

MR. RAUH. Labor is not a commodity, sir, and there is a big difference between telling somebody that he cannot hire somebody and urging somebody not to buy some goods.

THE CHAIRMAN. When you strike and put up a picket line, certainly mass picketing, you tell somebody he can't work at his job.

MR. RAUH. We haven't been mass picketing at that plant for almost 4 years.

THE CHAIRMAN. I don't care if it has been 10 years. There was mass picketing there, and I think it was 4 years ago.

MR. RAUH. Certainly there was, for 57 days.

THE CHAIRMAN. I don't want to argue, and I want to give you a little more time and let us move along.

MR. RAUH. I don't think that I am going to need a great deal more, sir. I have tried to point out, first, that there were so many factual errors in here that this document can't be credited at all. Secondly, neutrality is not a proper governmental action in this kind of situation. Thirdly, neutrals are drawn into this involuntarily but they are really allies of the Kohler Co.

Now, the major point I would like to make is that if we have done such terrible things, why is it that the Kohler Co. has never sued the United Automobile Workers, and why is it that they have never gone to the National Labor Relations Board, and why is it that they have never gone to the Seventh Circuit Court of Appeals for a contempt order under the consent decree? And why is it if in fact they come here and wail about the illegality of our alleged secondary boycott they have never taken any legal action?

We are not engaged in illegal conduct. We have carried on, considering this is a nationwide boycott, a careful and conservative operation.

The point I would like to make is that considering that this is nationwide in scope, we have been extremely cautious in our operations. We have in two situations only had a complaint to the Labor Board about the picketing of distributors.

Now, at that time, and I would like to point out this, Senator Curtis, you asked Mr. Chase what it was that came to mind quickly when you said, "Is something illegal that they are doing, and give me an example of illegality." Mr. Chase responded, "The Link and Hartshorn."

Now, those were cases where we picketed the distributor and in those cases there were complaints, and we agreed, Senator, to stop.

Now, I would like to point out, as I did before when I was talking with Senator Mundt in an exchange, that the law as declared by the United States Court of Appeals for the Second Circuit permits the very picketing which we agreed not to do.

In other words, had we sought to fight that out, our right to engage in picketing at a distributor, we would have been successful. But instead of that, because of the conservative and cautious approach we have taken to this secondary boycott, we consented not to do what the law now permits us to do.

So in conclusion, and I thank the committee for being able to make this short statement, it seems to me that the secondary boycott discussions much ado about nothing. We have been so careful and made so much of an effort to avoid any legal breaches that I think, far from being critical, that the United Automobile Workers ought to be entitled to some feeling that they had sought to carry this out with a minimum of accident, and I believe in a nationwide operation that is what has occurred.

I would ask, Mr. Chairman, now, in view of the fact that Mr. Chase's statement was printed in the record at the opening of his remarks, that our memorandum be printed in the record at the conclusion of mine now.

The CHAIRMAN. Without objection, it will so be ordered.

(The memorandum is as follows:)

MEMORANDUM ON UAW CONSUMER BOYCOTT OF KOHLER COMPANY PRODUCTS FOR PRESENTATION TO THE SENATE SELECT COMMITTEE ON IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD.

The UAW has followed four basic principles in the effectuation of its consumer boycott of Kohler products. These are:

(1) To tell the "Kohler Story" to the broadest possible segment of the general public.

(2) To utilize every possible medium of communication in a completely open fashion in telling the "Kohler Story."

(3) To avoid any activities the legality of which could even be questioned.

(4) To consent to the entry of cease and desist orders in those few instances—actually three in number—where charges were brought against UAW alleging violation of the secondary boycott provisions of the National Labor Relations Act.

Despite the fact that we have confined our activities to open appeals to the public to refrain from patronizing Kohler Company, and have avoided all activities which are of even questionable legality, it is now sought by the Kohler Co., for the first time to challenge the legality of our exercise of the constitutionally protected right of free speech.

Section 8 (b) (4) (A) of the NLRA as amended provides:

"(b) It shall be an unfair labor practice for a labor organization or its agents—

"(4) To engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, when an object thereof is:

"(A) Forcing or requiring any employer or self-employed person to join any labor organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person * * *

The consumer boycott conducted by the UAW against the Kohler Co. products does not in any way violate this provision of the Taft-Hartly Act. Our purpose has been simply to direct the attention of the public to the facts surrounding the Kohler strike; in other words, to tell the broadest possible section of the public the Kohler story.

The various methods used by the UAW to disseminate this information, and appeal to consumers not to patronize Kohler Co., have included:

- (1) Various types of advertising;
- (2) Direct approach to individuals and groups of individuals who are particularly concerned with plumbing wares, such as contractors and architects;
- (3) Direct approach to individuals and groups who themselves are substantial consumers of plumbing ware, such as corporations building and operating hotels and large apartment developments and various governmental units; and
- (4) Handbill distribution and occasional consumer picketing of plumbing ware distributors and wholesalers who handle Kohler products.

The UAW has never made any secret of its consumer boycott. The various methods used have been open and aboveboard. The Kohler Co. has known of this consumer boycott, and of the methods used to effectuate it from the outset; yet it has taken no action whatever against our union.

The very purpose of a consumer boycott is best achieved by a maximum of publicity. In fact, though it is certainly not the purpose or intent of this committee, this hearing which has developed many hitherto unknown aspects of Kohler Co.'s antiunion activities such as its use of labor spies, will substantially increase dissemination of the Kohler story and unquestionably increase the effectiveness of the boycott.

There will unquestionably be a great increase in the number of people who are aware of our consumer boycott following this hearing in view of the publicity which this hearing is receiving, and the facts of the Kohler story which this hearing is developing.

If there were anything illegal about this boycott, one could certainly assume that the Kohler Co. would have instigated legal action against the UAW. Yet, the Kohler Co., which proposes to produce a large number of witnesses before this committee presumably in an attempt to establish the illegality of our consumer boycott, has not filed a single charge with the National Labor Relations Board challenging the propriety of any aspect of our consumer boycott, nor has it taken any other legal proceedings.

Our consumer boycott activities have been questioned before the NLRB on three separate occasions in the following charges:

(1) A charge filed by an importing company against the UAW and several other unions growing out of the attempted unloading of a clay boat at the city of Milwaukee municipal docks. This charge did not actually grow out of our consumer boycott, but is included here since it is one of the three instances where we have been charged with violating the secondary boycott provisions of the NLRA.

(2) A charge against the Jackson County CIO Council filed by a plumbing ware distributor in Jackson, Mich., whose main customer entrance was picketed by Jackson County CIO members who were attempting to broaden dissemination of the Kohler story.

(3) A charge filed against the UAW by a plumbing ware distributor in Bellflower, Calif., alleging the same type of activity noted in (2) above.

In all three of these cases, the charged parties, including the UAW, felt that the activity complained of was legal and permissible since its only purpose was to inform possible purchasers of Kohler products and the general public that these products were made by "scabs" and "strikebreakers."

Though the UAW believed, and still believes, that the activities complained of in these three charges were legal and permissible in every sense, the UAW and the Jackson County CIO consented to the entry of NLRB cease and desist orders in all three cases.

We did so because, as the press release dated August 23, 1955, and read into the record of these proceedings by Emil Mazey in the session of March 7 indicates, we did not wish to engage in any proceedings to establish the legality of our conduct in these sporadic instances, particularly when these proceedings might delay or interfere with the trial of our unfair practice charges against the Kohler Co. We also considered that the type of conduct complained of in these three charges was of an isolated nature and a relatively unimportant segment of our total activity.

The Milwaukee charge: The charge filed by the importing company in this case was investigated by the NLRB. On the 23d of August 1955, the UAW agreed to stipulate a settlement of the entire proceeding with the NLRB.

Pursuant to this consent stipulation, an NLRB complaint was issued and a settlement stipulated (exhibit A-1), and a temporary injunction was prayed for, stipulated to and issued (exhibit A-2).

Subsequently, the stipulated settlement of the NLRB complaint was, pursuant to its terms, the basis of consent order issued by the United States Court of Appeals for the Seventh Circuit (exhibit A-3).

This settlement agreement specifically disclaimed any concession of guilt on the part of the UAW. We felt that the activity complained of by the charging party was legal and permissible.

To the extent that there was any inducement of employees of any employer present in the situation, the inducement would largely have been of employees of the city of Milwaukee and the railroads, which is, we believe, permissible under Taft-Hartley.

With regard to the alleged picketing of the Milwaukee municipal dock, the NLRB did file and process a complaint against several of the other unions involved, and this complaint was dismissed after trial by the NLRB in Paper Makers Import Company (116 N. L. R. B. 37), because the employees involved were municipal employees of the city of Milwaukee.

Indicative of the confusion surrounding the interpretation and application of the above quoted provision of NLRA is that the Fifth Court of Appeals has taken a position contrary to the Board on the question of inclusion of municipal employees and railroad employees in the group who are covered by the statutory prohibition.

As of today, with the exception of the area covered by the Fifth Circuit, it is the position of the NLRB that the conduct we are alleged to have participated in in connection with the municipal dock picketing and railroad picketing and other related matters would not have been found improper by the NLRB if we had chosen to litigate the charge.

In any event, we did not so choose, but rather entered a consent agreement with the NLRB, which agreement was incorporated in a consent order issued by the Seventh Court of Appeals, and which stands today as a prohibition against our engaging in any secondary boycott activities.

This consent order of the seventh circuit is not limited to the importing company or to other employers specifically noted in that order, but in general in scope prohibiting us from "picketing * * * or in any other manner * * * inducing or encouraging to strike the employees of * * * any other employer or person using, selling, handling, transporting, or otherwise dealing in the products of or for Kohler Co. * * * where an object thereof is to force or require * * * any other employer or person to cease using * * * products of or for Kohler Co., or to cease doing business with Kohler Co. or with any other employer."

In view of this court order to which we consented, we would not only be subject to NLRB proceedings if we engaged in secondary boycott activities, but would be in contempt of court subject to immediate penalties without the delays ordinarily incurred in Labor Board proceedings.

In fact, the order prohibits us from doing things which the Labor Board itself, in the Paper Makers Importing case, decided were not prohibited, such as inducing or encouraging employees of the city of Milwaukee to refuse to handle materials of or for the Kohler Co.

Despite the fact that this very board order of the seventh circuit to which we consented has been in existence during substantially the entire period of our consumer boycott, no violation of this injunction has ever been alleged.

The Jackson, Mich., and Bellflower, Calif., cases: With regard to these two charges, the legality of the act complained of basically depends upon findings of whether a consumer picket line outside the principal entrance of a plumbing ware distributor is intended to induce employees of that distributor in turn to bring pressure on their employer to cease handling Kohler products.

Such was never our intention; nor do we believe that such was the effect of the picketing at Jackson, Mich., or at Bellflower, Calif., or any place else we may have engaged in consumer picketing.

The fact that charges were filed with the NLRB in these two instances—Jackson, exhibit B-1, Bellflower, exhibit C-1—that in each instance the NLRB was prepared to issue a complaint and at Jackson had prayed for temporary injunctive relief in district court (exhibit B-2), establishes only that the NLRB General Counsel felt there was reasonable cause to believe the law might have been violated in each of these instances.

Within the last several years, Labor Board application of the above-quoted secondary boycott provision has tended to establish that such consumer picketing is prohibited per se when the entrance which is picketed is an entrance used in part by deliverymen and/or employees.

Perhaps the basic Labor Board decision on this doctrine, which was the basis of the Board's inclination to proceed with the charges filed in the Jackson and Bellflower situations, is Coca-Cola (33 L. R. R. M. 1122).

The line of Board decisions, including that very Coca-Cola case, also indicates that the Labor Board has serious doubts as to the legality of such picketing even if the entrance is only used by customers, a type of consumer picketing which prior to the Coca-Cola line of decisions had generally been assumed to be perfectly legal and proper, and which we feel is still legal and proper.

Several courts of appeal have reversed the Labor Board on this question, even where the entrance of the distributor being picketed is also used by the distributor's employees and/or deliverymen of other concerns bringing material to the distributor.

Principal among these courts of appeal is the second circuit, which has specifically upheld the right to picket the customers of a struck employer where the general conduct of the pickets indicates that the picketing is addressed to the consuming public, *NLRB v. Electrical Workers* (37 L. L. R. M. 2219); *NLRB v. Local 50, Bakery Workers* (40 L. L. R. M. 2107).

At least one district court has very recently refused the NLRB request for a temporary injunction against such picketing in *Gettrac v. Hatters Union*, (41 L. L. R. M. 2429).

In the *Electrical Workers* case, the second circuit dismissed the complaints of the struck company's customers stating that:

"Their only fear seems to be a possible public embarrassment. Such embarrassment and persuasion the union is privileged to pursue."

This dispute, as to the legality of consumer picketing of the type we have occasionally engaged in will undoubtedly be clarified by the Supreme Court in the near future. We are confident that the Court will uphold the decisions of the Second Court of Appeals overruling the NLRB's theory that such consumer picketing automatically violates the law.

Nonetheless, through being convinced of the legality of such picketing, in those two instances where it was charged that such picketing violated the NLRA, we consented, or advised the Jackson County CIO to consent, to a Board cease-and-desist order which, if it were violated, would be immediately enforceable by court injunction.

Our agreement to stipulate that the Board cease-and-desist orders—Jackson, exhibit B-3, Bellflower, exhibit C-2—could be entered in these two cases is in no sense an admission that we violated the NLRA.

A consent order, like a settlement of ordinary civil litigation, is simply an agreement by the parties that the best interests of all will be served by the entry of a particular order.

In fact, as the foregoing discussion indicates, had we litigated the charges in these two cases, the legality of our conduct would undoubtedly have been determined not by any decision the NLRB might have issued, but by the eventual decision of the Supreme Court which will clarify the dispute between certain courts of appeal and the NLRB, and, as noted, which we are confident will uphold the decisions of the second circuit on this question.

Our reason for consenting to orders in these two cases, as in the case of our consent to the entry of an order in the Milwaukee municipal dock picketing matter, was that we did not wish to engage in any activity in promoting our primary consumer boycott which was of even doubtful legality.

CONCLUSIONS ON CONSUMER BOYCOTT ACTIVITIES

With the few exceptions noted above, the legality of our primary consumer boycott has not even been challenged. Yet, before this committee, Kohler now, for the first time, is attempting to cast doubt over the legality of our activities. This would appear to us to be an abuse of the committee's facilities.

APPEALS TO GOVERNMENTAL AGENCIES

The legality of one other aspect of our consumer boycott activities has also been challenged in public debate, though no legal action has ever been taken in this regard. This aspect concerns our open appeals to various governmental units to refrain from purchasing Kohler products.

In those instances where the propriety of such conduct has been raised, it has not been connected with any Federal law, but rather with those various State and municipal statutes and codes which control the process of governmental purchases.

The issue raised in this connection is the very complicated one of whether governmental bodies making decisions on purchases under statutes requiring them to accept the "lowest responsible bid" or some such similar restriction can and should consider the labor relations situation of a prospective supplier, and whether the prospective supplier's labor relations policies may violate Federal or State laws.

There have been numerous court decisions in the various States on this question, and the Federal Comptroller General has issued numerous decisions not completely free of conflict regarding the Federal Government's right or duty to add nonfinancial stipulations to its purchasing procedures.

Our appeal to governmental bodies has been based upon the fact that the Kohler Co. has been charged by the appropriate Federal agency with substantial and serious violations of the NLRA which prolonged the strike, in the course of which Kohler has continued its operations through utilization of "scabs" and "strikebreakers."

These appeals have been made openly and publicly. We have requested these governmental bodies to refrain from assisting a corporation which is, in effect, under charge for violation of Federal law, by refraining from purchasing the products of that corporation.

In fact, we appeared before a subcommittee of this United States Senate in June of 1955 in support of legislation which would establish a Federal governmental policy of not purchasing products of companies who have been charged with serious unfair labor practices leading to the precipitation or prolongation of a strike which the company is attempting to break through operation of its plant.

It was to these June 1955 hearings that Senator Ives had reference when, at an earlier stage of this hearing, he remarked that he and other Senators once before attempted to mediate and settle the Kohler strike.

Though the question has occasionally been raised that governmental bodies have no legal right to consider whether a potential supplier has been charged by the Federal Government with substantial violations of Federal law, the relatively few decisions of State and Federal courts on this question appear to establish the right, and even the duty, of governmental bodies to consider their own and Federal public policy in determining from whom to purchase supplies.

Corpus juris secundum in its discussion of municipal corporations in section 1157 (b) notes that "the proper municipal authorities have a wide discretion which will not be controlled by the courts * * * provided the determination is in good faith based on appropriate facts, is in the public interest * * * The municipal authorities need not be guided in this determination solely by the question of the pecuniary responsibility of a bidder, but may consider * * * his general qualifications to execute the work properly."

Perkins v. Lukens Steel Company, (310 US 113), is an illustration of inclusion of a nonfinancial stipulation, and one relating to the labor relations of potential suppliers at that, in the Federal Government's purchasing procedure.

Any question of possible illegality in connection with this activity would have to be decided independently in the jurisdiction in which it arose under the specific statutes or ordinances controlling the purchasing procedures in the particular instance.

However, we believe that in any such situation, the broad public policy aspects involved in State and local governmental units furthering compliance with Federal laws by refraining from purchasing materials from suppliers charged by the Federal Government with violation of those laws would prevail over restrictions of powers of governmental purchasing units established by specific purchasing procedure statutes.

In fact, it is our opinion that State and local governmental units not only may, but should consider whether a potential supplier has been officially charged with violating a Federal law.

APPEALS TO CHARITABLE ORGANIZATIONS SUPPORTED BY VOLUNTARY COMMUNITY AGENCIES

Though no question of legality is involved, one other issue has been raised in connection with the consumer boycott. This is the question of the propriety of seeking to influence community agencies such as the Community Chest to refrain from supporting charitable organizations which in turn purchase and install Kohler products.

We have generally confined our approach to charities supported by community agencies within the same limits as our approach to any other consumer of plumbing ware, i. e., requesting the organization to purchase and install a union-made brand.

In a few cases, where the charitable organization has not indicated any desire to refrain from assisting the Kohler Co. by refraining from purchasing its materials, union members in the area, sometimes including UAW members, have quite naturally become aroused to the point of threatening to withhold contributions to the community agency supporting the charity.

We always have discouraged any such action, and will continue to discourage it, though it is sometimes exceedingly difficult, if not impossible, to prevent workers from reacting adversely to a community agency which permits its funds, partly contributed by the same workers, from being used to aid the Kohler Co.

SUMMARY

In summary, we would merely wish to note that the Kohler Co. has never challenged the legality of our consumer boycott though extremely simple procedures for so challenging it under the NLRA and in the courts are available; that in those three isolated cases where the legality of our methods have been challenged we have consented to the entry of court and Labor Board orders because, while not admitting that the activities are illegal, we do not wish to engage in activities which are of even questionable legality; and that consumer boycott has been in effect in the most public fashion for several years and only now, before this committee, has the Kohler Co. attempted to take issue with our right to engage and continue our attempt to disperse as widely as possible the facts of the Kohler Story.

Respectfully submitted.

JOSEPH L. RAUH, Jr.
REDMOND H. ROCHE, Jr.
Attorneys for UAW.

Senator CURTIS. I want to ask the gentleman some questions.

Mr. RAUH, you said that you were not directing something at the Chairman, but you were directing something at five of the Senators. Will you identify the Senators?

Mr. RAUH. Yourself, Senator Mundt, Senator Goldwater.

Senator CURTIS. What were you directing to us?

Mr. RAUH. I think that you have been unfair in this hearing.

Senator CURTIS. Now, Mr. RAUH, you are the judge of that, are you?

Mr. RAUH. I have to be the judge of my own conscience and my own mind.

Senator CURTIS. Well, every once in a while you take the witness stand to throw some charge or something like that in there, just to divert or make headlines, and I guess we will have to endure it.

Now, you objected to Mr. Chase's appearance here on the ground that he presented hearsay testimony.

Mr. RAUH. I do not object and I only ask for the same rights.

Senator CURTIS. Did you not raise an objection to it?

Mr. RAUH. No, sir. He testified for 3 hours and I sat quietly and objected not at all.

Senator CURTIS. I understand you did not object while it was going on, but that was the basis of it. I want to know, are you the same Mr. RAUH who sat with Mr. Brierley the other day when he testified?

Mr. RAUH. I sure am, sir. There was hearsay there.

Senator CURTIS. I think, Mr. RAUH, that your position is not only inconsistent with your own conduct, but I am not going to take the time of the committee to give any expression about your charge of unfairness here.

It is not true, but we are not going to take this forum this afternoon to dispute it, but it is one of those things that divert attention. It is

the game you have been playing here all of the time and I think the public realizes it.

The CHAIRMAN. Thank you very much.

Call the next witness.

Mr. KENNEDY. Mr. Richard Sharp.

The CHAIRMAN. Mr. Sharp, will you come forward?

Do you solemnly swear that the evidence that you shall give before this Senate Select Committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. SHARP. I do.

TESTIMONY OF RICHARD H. SHARP

The CHAIRMAN. State your name and your place of residence and your business or occupation.

Mr. SHARP. My name is Richard H. Sharp, and I live at Route 2, Muskego, a suburb of Milwaukee, and I am a plumbing estimator.

The CHAIRMAN. Do you waive counsel, Mr. Sharp?

Mr. SHARP. Yes, sir, I do.

The CHAIRMAN. Did you ever work for the Kohler Co.?

Mr. SHARP. No, sir; I have not.

The CHAIRMAN. Do you belong to any union?

Mr. SHARP. I do right now; yes.

The CHAIRMAN. I beg your pardon?

Mr. SHARP. Yes, sir; I do.

The CHAIRMAN. What union do you belong to?

Mr. SHARP. Local 75 of the plumbers.

The CHAIRMAN. Plumbers local 75?

Mr. SHARP. That is right.

The CHAIRMAN. How long have you belonged to it?

Mr. SHARP. About 4 years.

The CHAIRMAN. So that you are a plumbers estimator?

Mr. SHARP. That is right.

The CHAIRMAN. All right, Mr. Kennedy.

Mr. KENNEDY. Mr. Sharp, you were employed by the Knab Co., a plumbing contractor, in 1956?

Mr. SHARP. That is right.

Mr. KENNEDY. You were a subcontractor, were you, for them?

Mr. SHARP. No. I am a superintendent.

Mr. KENNEDY. You were a superintendent?

Mr. SHARP. That is right.

Mr. KENNEDY. At that time were you a member of the plumbers union?

Mr. SHARP. Yes, sir.

Mr. KENNEDY. You were working at Mitchell Field in Milwaukee, Wis.?

Mr. SHARP. That is right.

Mr. KENNEDY. Did some plumbers walk off the job at that time, when there was an installation of Kohler products?

Mr. SHARP. Yes, sir; they did.

Mr. KENNEDY. How many walked off the job?

Mr. SHARP. About 11 plumbers.

Mr. KENNEDY. For what reason did they walk off?

Mr. SHARP. We had the Kohler fixtures to go on a job, and the job was completely roughed in, and the day's load came out there and they left 1 by 1.

The CHAIRMAN. Will you come closer to the microphone, please?

Mr. SHARP. One by one they started leaving the job.

Mr. KENNEDY. Why did they leave?

Mr. SHARP. They refused to install the fixtures.

Mr. KENNEDY. For what reason?

Mr. SHARP. Well, I asked a couple of the boys why and they said it was their own opinion to leave and one of them did tell me he had received a call from the business agent telling him if he wanted to stay in the local and not be blackballed, he had better not put the fixtures in.

Mr. KENNEDY. Who told you that?

Mr. SHARP. I beg your pardon?

Mr. KENNEDY. Who told you that?

Mr. SHARP. One of the plumbers.

Mr. KENNEDY. What was his name?

Mr. SHARP. I believe his name was Carl Oberlander.

Mr. KENNEDY. He said he got a telephone call from the business agent of the plumbers union?

Mr. SHARP. Yes, sir.

Mr. KENNEDY. What was his name, the name of the business agent?

Mr. SHARP. Anthony King.

Mr. KENNEDY. Did you talk to Mr. King about that?

Mr. SHARP. Mr. King was not available.

Mr. KENNEDY. Did you have any other experience with the plumbers walking off the job?

Mr. SHARP. Well, right after this happened, we had the job at St. Luke's hospital come up.

Mr. KENNEDY. You were working there, also?

Mr. SHARP. That is right, I was superintendent.

Mr. KENNEDY. And two new wings of the St. Luke's hospital were being constructed?

Mr. SHARP. The east wing and west wing.

Mr. KENNEDY. And there were Kohler products being installed?

Mr. SHARP. Yes, and the old building had Kohler fixtures in it, and they were Kohler fixtures, and the hospital board wanted to match the fixtures up. That was not only to match them, but for maintenance, so they would not have to have additional parts on hand.

While we were in the process of loading our material, we received a call from Mr. King, stating that if we were putting Kohler fixtures on the job, we would have trouble.

Mr. KENNEDY. Did you ask him what he meant by "trouble"?

Mr. SHARP. We would not get any men.

Mr. KENNEDY. Did you ask him?

Mr. SHARP. Yes, sir.

Mr. KENNEDY. And he said you won't get any men?

Mr. SHARP. That is right.

Mr. KENNEDY. If you insist on installing Kohler products he would not allow the man to come up there and do the job?

Mr. SHARP. That is right.

Mr. KENNEDY. He had control over the plumbers?

Mr. SHARP. Yes, sir; they go through the business hall.

Mr. KENNEDY. There is a business hall hiring?

Mr. SHARP. Yes, sir.

Mr. KENNEDY. You have to go to the business hall in order to get plumbers to work on the job?

Mr. SHARP. Yes, sir.

Mr. KENNEDY. And he said he would not make any plumbers available on this installation if you insisted on installing Kohler products?

Mr. SHARP. That is right.

Mr. KENNEDY. The same procedure that had been used earlier in the Mitchel Field job?

Mr. SHARP. That is right.

Mr. KENNEDY. Now, did they then discuss that with the hospital authorities?

Mr. SHARP. At that time, about 3 days later, my foreman on that job walked off the job about 3 o'clock in the afternoon. He said he could not stand the pressure of having the phone calls in there.

Mr. KENNEDY. Who told you that?

Mr. SHARP. It was Carl Papp.

Mr. KENNEDY. He was the foreman working on the job and he said he could not stand the telephone calls and he was going to quit the job?

Mr. SHARP. That is right.

Mr. KENNEDY. What did he say the telephone calls consisted of?

Mr. SHARP. He said he had received calls that he would be black-balled in the union.

Mr. KENNEDY. From whom did he say he received the telephone calls?

Mr. SHARP. Mr. King.

Mr. KENNEDY. And he said he was going to walk off?

Mr. SHARP. He did walk off.

Mr. KENNEDY. Was another foreman hired then?

Mr. SHARP. I put another man on the job.

Mr. KENNEDY. Who did you get then? Who replaced him?

Mr. SHARP. Carl Oberlander from the airport job.

Mr. KENNEDY. Did he receive any telephone calls?

Mr. SHARP. He didn't say, no, and at that time we had another meeting with the hospital board, to see if we could change the fixtures to some other brand, and the hospital said "No," they wanted to keep the Kohlerware for matching up the other fixtures in the job.

Mr. KENNEDY. The hospital board met and considered this request of the plumber's union, that they not install Kohler products, and they decided they were going ahead and install them, anyway; is that right?

Mr. SHARP. That is right.

Mr. KENNEDY. Because they wanted to have them matched up with the other equipment in the hospital?

Mr. SHARP. That is right.

Mr. KENNEDY. In the meantime, your first foreman quit, Mr. Carl Papp, and you had hired another foreman, Oberlander?

Mr. SHARP. That is right.

Mr. KENNEDY. Did you have to go through the local plumber's union to get this Oberlander?

Mr. SHARP. No, I transferred him from the airport job, and he was running both jobs.

Mr. KENNEDY. Would he not be subject to pressure as Papp was subject to pressure?

Mr. SHARP. Yes, he would.

Mr. KENNEDY. Did he receive telephone calls?

Mr. SHARP. He never told me, and he told me he did not give a care whether he got calls or not.

Mr. KENNEDY. Do you know whether he ever received any?

Mr. SHARP. He might have.

Mr. KENNEDY. Do you know if he did?

Mr. SHARP. No, sir, I don't.

Mr. KENNEDY. Now, shortly after the hospital board made the decision to install the Kohler products, was there a picket line set up outside the hospital?

Mr. SHARP. Yes, sir. One Monday morning we received a call at the office that there was a picket line there, from my foreman, Carl Oberlander. I got over to the job and the plumbers were all sitting in the shack and they said they were not going to cross the picket line.

The electricians and carpenters and everybody else on the job were working and the only one not working were the plumbers.

Mr. KENNEDY. Did they carry signs, these pickets?

Mr. SHARP. Yes, they did.

Mr. KENNEDY. Saying, "Don't use Kohler products"?

Mr. SHARP. Yes, and not to use scab-made products, and there were 5 or 6 different signs they had over there.

Mr. KENNEDY. And the plumbers refused to cross the picket line?

Mr. SHARP. That is right.

Mr. KENNEDY. Did the rest of the building trades cross?

Mr. SHARP. Yes, they were working.

Mr. KENNEDY. Did you point this out to the head of the building trades council?

Mr. SHARP. I called our local business agent, but he was out of town. It was a couple of days after that when we had a meeting with the hospital board to see what we could get done and at this meeting, Mr. Raymond Majaris came down from Sheboygan, and he sat in and told the hospital board how poor the fixtures were and that they should not be put in the job.

He also at that time explained there was a very good possibility that the Community Chest would be outlawed in town, if these fixtures were going in the hospital.

Mr. KENNEDY. That the Community Chest would be what?

Mr. SHARP. Would be boycotted.

Mr. KENNEDY. Because of the fact that hospital was installing these fixtures?

Mr. SHARP. That is right. Mr. Kinsley, the head of the hospital said that it would not hurt this hospital but that it might hurt others, and as far as he was concerned they were going to go ahead and put in Kohler ware.

Mr. KENNEDY. Why did he state it would not hurt St. Luke's?

Mr. SHARP. Because they had a very small percentage in it from the Community Chest and he said most of their money was given to them by other donators in town.

Mr. KENNEDY. Did Mr. Majaris say anything at that time about the picket line?

Mr. SHARP. No; he did not.

Mr. KENNEDY. Did you find out later that he had set up this picket line?

Mr. SHARP. No; but at the end of the week, in the meantime, the general contractor was going ahead and we could not complete our job, that is put sleeves for our pipe to go through after the concrete was poured and there was nobody on the job to do it.

So, Monday morning, or the following Tuesday, I guess it was, I called the Building Trades Council president, Mr. George Sanganaro, and told him I did not think it was fair because every other trade was working and the plumbers were not and it was going to involve the Knab Company in quite a bit of additional expense to go in that job, if they wanted our pipe to go in, and he said, "Don't you worry about that. I will take care of that," and the next day the whole job shut down.

Mr. KENNEDY. So all of the other building trades walked out then?

Mr. SHARP. That is right, and in the meantime, the administrator of the hospital, had been taking the license plate numbers of the pickets and he told me, every morning, they were members of Local 9 of the Brewery Workers Union.

Mr. KENNEDY. The people on the picket line, according to the license plates of the cars they were driving, were all members of the brewery workers?

Mr. SHARP. That is right.

Mr. KENNEDY. Do you know how the brewery workers got in on it?

Mr. SHARP. No, sir; I did not get into that. The hospital administrator was in on that and he just told me different parts of that and they were sure they were from the Brewery Workers Union, that were on the picket line.

Mr. KENNEDY. They said they were a citizens committee, opposing the use of Kohler products, and when a check was made and investigation was made, it was found that they were members of the Brewery Workers Union?

Mr. SHARP. That is right.

Mr. KENNEDY. Was it ever determined who arranged for them to come there?

Mr. SHARP. No; I believe the hospital hauled them into court and everybody refused to say anything on the deal, who paid them or why.

Mr. KENNEDY. Now, the construction was shut down?

Mr. SHARP. The construction was shut down for about 4 weeks.

Mr. KENNEDY. Was this because of the picket line?

Mr. SHARP. Yes, sir; it was.

Mr. KENNEDY. And didn't the hospital get an injunction then?

Mr. SHARP. The hospital got an injunction and they went back to work but in the meantime they had dragged this thing through bad weather and delayed the construction of the hospital about 2 months.

Mr. KENNEDY. Now, you say as far as your personal contact with any official of any union, it was with Mr. King, is that right?

Mr. SHARP. That is right, sir.

Mr. KENNEDY. And it was Mr. King that arranged for the plumbers to—at least according to your testimony, it was Mr. King's conversation with a plumber from Mitchell Field that got him to leave that

installation, and it was Mr. King's conversation with the foreman at the St. Luke's Hospital that got him to leave, is that right?

Mr. SHARP. That is right, sir.

Mr. KENNEDY. Now you are sure about that?

Mr. SHARP. Yes, sir; I am.

Mr. KENNEDY. On that point, I interviewed Mr. King and he will be a witness later on this afternoon, and he denies this completely.

Mr. SHARP. Well, this is what the men told me.

Mr. KENNEDY. What is that?

Mr. SHARP. This is what the men told me.

Mr. KENNEDY. Well, didn't you have any conversations with Mr. King?

Mr. SHARP. Yes, sir; I did.

Mr. KENNEDY. Did he say this to you?

Mr. SHARP. He told us that if we did not get rid of the Kohler fixtures, we would have trouble. That was before we started.

Mr. KENNEDY. Then you asked him what the trouble was going to be?

Mr. SHARP. He also at the same time, Mr. Knab was on the other phone, and Mr. Knab heard it at the same time.

Mr. KENNEDY. Did you ask him then what the trouble was going to be?

Mr. SHARP. He said we would not get men.

Mr. KENNEDY. If you insisted on installing the Kohler products?

Mr. SHARP. That is right.

Mr. KENNEDY. And that conversation was monitored at that time? There were two people on it?

Mr. SHARP. That is right.

Senator CURTIS. About when was this conversation with Mr. King?

Mr. SHARP. It was right after we received the contract for St. Luke's Hospital, about a week following.

Senator CURTIS. And it was a telephone conversation?

Mr. SHARP. Yes, sir; it was.

Senator CURTIS. Where were you at the time you received it?

Mr. SHARP. I was in the office.

Senator CURTIS. Of the Knab Co.?

Mr. SHARP. Yes, sir.

Senator CURTIS. And who placed the call?

Mr. SHARP. It was placed in the union hall.

Senator CURTIS. Did you call Mr. King or did he call you?

Mr. SHARP. No, we got a call right from the union hall.

Senator CURTIS. And did they say who was calling?

Mr. SHARP. Mr. King.

Senator CURTIS. And that meant Tony King, business agent for the Plumbers Local 75?

Mr. SHARP. That is right.

Senator CURTIS. Were you both on the phone from the beginning, both you and Mr. Knab?

Mr. SHARP. Yes, we were.

Senator CURTIS. Whom did he ask for, when he called?

Mr. SHARP. He asked for me.

Senator CURTIS. He asked for you?

Mr. SHARP. Yes, sir,

Senator CURTIS. And did you answer in the first instance or did some secretary answer?

Mr. SHARP. No; one of the office girls answered.

Senator CURTIS. An office girl answered?

Mr. SHARP. Yes, sir.

Senator CURTIS. And when you were told that Mr. King wanted to talk to you on the phone, it was arranged that Mr. Knab get on another extension?

Mr. SHARP. That is right, sir.

Senator CURTIS. Did both of you take part in the conversation with King?

Mr. SHARP. No, sir.

Senator CURTIS. Which one of you talked?

Mr. SHARP. I did, sir.

Senator CURTIS. But Mr. Knab heard all that was said?

Mr. SHARP. That is right.

Senator CURTIS. By both parties?

Mr. SHARP. That is right.

Senator CURTIS. Did Mr. King at any other time have any direct conversation with you about this subject?

Mr. SHARP. Not directly with me; no, sir.

Senator CURTIS. Now, repeat again, just what did he say over this telephone conversation to you and Mr. Knab, or to you when Mr. Knab heard it?

Mr. SHARP. He said that on account of the Kohler fixtures on this thing—

Senator CURTIS. I can't hear you.

Mr. SHARP. He said on account of Kohler fixtures on the St. Luke's Hospital job, if we didn't advise the others to get rid of them, we were going to have trouble on the job. And he said, "What do you mean?" And he said, "Well you wouldn't get any men."

Senator CURTIS. Had Kohler fixtures already been delivered?

Mr. SHARP. No; in fact the order hadn't even been ordered yet.

Senator CURTIS. But it was known that they would be ordered?

Mr. SHARP. That is right.

Senator CURTIS. And he said if they proceeded to use them, there would be trouble on the job?

Mr. SHARP. Yes, sir.

Senator CURTIS. Did he say what kind of trouble?

Mr. SHARP. He said we wouldn't have any men on the job.

Senator CURTIS. You would not have any men on the job?

Mr. SHARP. That is right.

Senator CURTIS. Now, there was a citizen's picket line at St. Luke's Hospital?

Mr. SHARP. They called themselves a citizen's committee; yes.

Senator CURTIS. About how big a picket line did these citizens have?

Mr. SHARP. Well, it varied anywhere from 3 to about 7.

Senator CURTIS. Did they ever have any meetings that you know of?

Mr. SHARP. Any meetings?

Senator CURTIS. Yes.

Mr. SHARP. The only time I noticed them, I don't know whether it was a meeting or not, but there was a car pulled up there, and they all left and went over and talked and it seemed like they were getting instructions or something, and they all came back.

Senator CURTIS. I can't quite understand you.

Mr. SHARP. There was a car pulled up there, and they all walked over to the car, and it seemed like they were having a meeting, and I don't know if they were or not, but they walked over and seemed to be getting instructions from the car that had pulled up and they all went back to the picket line again.

Senator CURTIS. Who was in the car, do you know?

Mr. SHARP. I don't know, sir.

Senator CURTIS. And you don't know what UAW representatives may have talked to the hospital board about the citizen's picket line, do you?

Mr. SHARP. No, sir; I don't. The only thing I know was at one meeting I was at with the hospital board, where Mr. Majerus sat in.

Senator CURTIS. Was that meeting before the citizen's picket line was formed?

Mr. SHARP. I believe it was; yes.

Senator CURTIS. What did Mr. Majerus say there?

Mr. SHARP. He said that he was helping the workers at Kohler, and they would like to see them put something else in there beside Kohler fixtures.

Senator CURTIS. Did he say anything about the citizen's picket line?

Mr. SHARP. No, sir; he did not. He said that in some cases they would have trouble around these jobs.

Senator CURTIS. Did he indicate what kind of trouble?

Mr. SHARP. No, sir; he just said that they would have trouble, and he did not indicate at all.

Senator CURTIS. That is all Mr. Chairman.

The CHAIRMAN. Are there any further questions?

Mr. KENNEDY. That is all.

The CHAIRMAN. I have one question. When these men walked off the job, how were you able to get the fixtures installed?

Mr. SHARP. You mean at the airport?

The CHAIRMAN. You said that a number of them walked off the job.

Mr. SHARP. That was at the airbase. Well, we wound the job up with three men.

The CHAIRMAN. You did what?

Mr. SHARP. We wound the job up with three men, and we had a \$400-a-day backcharge standing over our heads, and we just made it by the skin of our teeth.

The CHAIRMAN. In other words, if you did not complete the job within a certain time, you would be penalized so much a day?

Mr. SHARP. \$400 a day.

The CHAIRMAN. But with three men you were able to complete it?

Mr. SHARP. We just skinned it.

The CHAIRMAN. Who lost out on that strike, the fellows who struck? You went ahead and put the fixtures in anyhow?

Mr. SHARP. Who lost out?

The CHAIRMAN. The folks who walked off the job lost their wages?

Mr. SHARP. Well, that is right; and they went back to work right away.

The CHAIRMAN. They went back right away?

Mr. SHARP. Yes, sir. They went back to the union hall and were put to work right away.

The CHAIRMAN. They went to work on this job?

Mr. SHARP. No, sir; another job.

The CHAIRMAN. They put them on another job?

Mr. SHARP. That is right.

The CHAIRMAN. But you were able to finish?

Mr. SHARP. Yes, sir; we were.

The CHAIRMAN. I see. As a union man, how do you feel? I believe you said you are a union man now, and as a union man how do you feel about these boycotts like that, or strikes, and picketing and what I would call a secondary boycott?

Mr. SHARP. Well, as far as the secondary end of it, I don't think too much of it.

The CHAIRMAN. You don't think too much of it?

Mr. SHARP. No, sir.

The CHAIRMAN. Mr. King is still business manager for local 75?

Mr. SHARP. Yes, sir; he is.

The CHAIRMAN. And you are a member of that local?

Mr. SHARP. Yes, sir.

The CHAIRMAN. Do you reckon you are in dutch now by reason of your testimony?

Mr. SHARP. I don't know, sir.

The CHAIRMAN. Well, let us hope not.

Mr. KENNEDY. Mr. King, will you come around.

Mr. DUNN. I represent Mr. King, and he left to go back to the hotel to get some additional statements under oath, with respect to the testimony just given by this witness, and I understod you usually adjourned at 4:30.

The CHAIRMAN. Well, I don't want to get too usual around here, because we may have to have some night session, the way we are going now. I don't know why he left like this.

Mr. DUNN. We didn't have very much notice with respect to what this gentleman was going to testify to.

Mr. KENNEDY. I asked the questions before the noon hour, covering generally what he was going to testify to, and he was supposed to be ready to testify.

Mr. DUNN. That does not give us very much time.

The CHAIRMAN. Do we have another witness?

Mr. KENNEDY. How about Mr. Kuempel? Is Mr. Kuempel here?

The CHAIRMAN. Will you come around, please?

Do you solemnly swear that the evidence, given before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. KUEMPEL. I do.

TESTIMONY OF HAROLD E. KUEMPEL

The CHAIRMAN. State your name and your place of residence and your business or occupation.

Mr. KUEMPEL. Harold Kuempel, Niles, Ill., building contractor.

The CHAIRMAN. Do you waive counsel?

Mr. KUEMPEL. Yes, I do.

The CHAIRMAN. How long have you been a building contractor?

Mr. KUEMPEL. 12 years.

The CHAIRMAN. Do you belong to any union?

Mr. KUEMPEL. No, sir.

The CHAIRMAN. Have you ever belonged to a union?

Mr. KUEMPEL. No, sir.

The CHAIRMAN. Have you had contacts with the union as a contractor?

Mr. KUEMPEL. No, sir.

The CHAIRMAN. Yours is a free and open shop?

Mr. KUEMPEL. I sublet my work.

The CHAIRMAN. You let the other fellow do the worrying?

Mr. KUEMPEL. That is right.

The CHAIRMAN. All right, proceed.

Mr. KENNEDY. You had some bathtubs you were installing in 1956, June and July of 1956?

Mr. KUEMPEL. That is right.

Mr. KENNEDY. Where were you installing the bathtubs?

Mr. KUEMPEL. In Niles.

Mr. KENNEDY. Where?

Mr. KUEMPEL. In Niles, Ill.

Mr. KENNEDY. Now, did you have any damage to the bathtubs?

Mr. KUEMPEL. One morning we came down to the job and there were about seven jobs, and they were scratched with a sharp instrument. So we contacted the Kohler Co. with respect to them, and on the subflooring it said, "Stop using Kohler fixtures."

Mr. KENNEDY. What is that?

Mr. KUEMPEL. On the subflooring, these jobs were just roughed in, and so the Kohler representative came out.

Mr. KENNEDY. There were notes there saying, "Stop using Kohler fixtures?"

Mr. KUEMPEL. Yes, sir.

Mr. KENNEDY. Were the notes typewritten?

Mr. KUEMPEL. With a crayon.

Mr. KENNEDY. Now, had you had any trouble or difficulty prior to that time?

Mr. KUEMPEL. Never.

Mr. KENNEDY. Had anybody called you or told you, you should not use Kohler fixtures?

Mr. KUEMPEL. No, sir.

Mr. KENNEDY. This is the first act, is that correct?

Mr. KUEMPEL. Yes, sir.

Mr. KENNEDY. And there was a note or there were notes written, "Stop using Kohler fixtures," and then the bath tubs were scratched?

Mr. KUEMPEL. That is right.

Mr. KENNEDY. How were they scratched?

Mr. KUEMPEL. Well, they had a sharp object and it was scratched with crosses, where the tubs were to be placed.

Mr. KENNEDY. They made an indentation in the bath tub?

Mr. KUEMPEL. Yes, sir.

Mr. KENNEDY. Did it scratch off the enamel or what?

Mr. KUEMPEL. Sure, it went in a quarter of an inch or a 16th.

Mr. KENNEDY. There were crosses?

Mr. KUEMPEL. Yes, sir.

Mr. KENNEDY. How many bath tubs?

Mr. KUEMPEL. I think it was five or six.

MR. KENNEDY. How much does a bath tub cost?

MR. KUEMPEL. I imagine about \$90.

MR. KENNEDY. So how much was the damage?

MR. KUEMPEL. Well, Kohler replaced the tubs for me, and all I had to do was reinstall them.

MR. KENNEDY. Did that cost you anything?

MR. KUEMPEL. Just the installation charges.

MR. KENNEDY. The extra installation charges?

MR. KUEMPEL. Yes, sir.

MR. KENNEDY. How much was the damage?

MR. KUEMPEL. I imagine about \$20 or \$25 a job.

MR. KENNEDY. But the Kohler Co. had to replace the six bath tubs at approximately \$90 apiece?

MR. KUEMPEL. That is right.

MR. KENNEDY. So they lost the \$550 that they had to replace?

MR. KUEMPEL. That is right.

MR. KENNEDY. Then you lost the \$20 apiece?

MR. KUEMPEL. That is right.

MR. KENNEDY. So you lost over \$100 yourself?

MR. KUEMPEL. Yes, sir.

MR. KENNEDY. Now, did you install those bath tubs that they replaced?

MR. KUEMPEL. Yes, we did.

MR. KENNEDY. Did you have any trouble after that?

MR. KUEMPEL. None whatsoever. We resorted to American Standard on the rest, and I believe it was 16 more jobs.

MR. KENNEDY. Then you changed. For what reason did you change?

MR. KUEMPEL. Well, in order not to have any more trouble.

MR. KENNEDY. Was it because of this difficulty that you changed?

MR. KUEMPEL. I believe so, definitely.

MR. KENNEDY. Did you change for the reason of the damage that was done to your bath tubs?

MR. KUEMPEL. Yes, sir.

MR. KENNEDY. Now, did you have any other damage done to your property?

MR. KUEMPEL. No.

MR. KENNEDY. Did you have any windows broken?

MR. KUEMPEL. We did have a window broken a few weeks later, I imagine about 4 weeks later. I don't know whether that pertained to this incident or not.

MR. KENNEDY. Was there any other reason that the window would be broken?

MR. KUEMPEL. I haven't any idea.

MR. KENNEDY. The damage there was some \$275?

MR. KUEMPEL. Yes, sir.

MR. KENNEDY. Did you believe that it related to this incident or do you know?

MR. KUEMPEL. I can't say for sure.

MR. KENNEDY. It was a thermopane window?

MR. KUEMPEL. That is right.

MR. KENNEDY. To break a thermopane window, wouldn't you have to use a hammer?

Mr. KUEMPEL. It would have to be a very heavy object.

Mr. KENNEDY. Why would anybody break the window?

Mr. KUEMPEL. I don't know.

Mr. KENNEDY. And you stopped in order to avoid future problems and difficulties?

Mr. KUEMPEL. That is right.

Mr. KENNEDY. So if the purpose of scratching the bath tub was to prevent you from using Kohler products, they were successful?

Mr. KUEMPEL. That is right.

The CHAIRMAN. Did you have any more trouble after that?

Mr. KUEMPEL. No, we did not.

The CHAIRMAN. When you quit using Kohler, you got along peacefully?

Mr. KUEMPEL. Yes, sir.

The CHAIRMAN. And had no more damage?

Mr. KUEMPEL. No, sir.

The CHAIRMAN. What does that convince you of?

Mr. KUEMPEL. Well, I mean it is just one of those things, and if you want to get involved, you continue on, and I don't know what the consequences would be.

The CHAIRMAN. Just one of those things?

Mr. KUEMPEL. Yes, sir.

The CHAIRMAN. A pretty impressive thing, was it not?

Mr. KUEMPEL. Yes, sir.

The CHAIRMAN. Rather convincing?

Mr. KUEMPEL. Yes, sir; it was.

The CHAIRMAN. And it became conclusive?

Mr. KUEMPEL. That is right.

Senator CURTIS. Where was this location where these bath tubs were scratched?

Mr. KUEMPEL. It was on the flooring in one room.

Senator CURTIS. What county and State?

Mr. KUEMPEL. Niles, Illinois.

Senator CURTIS. Did you report it to the police?

Mr. KUEMPEL. Yes, sir; we did.

Senator CURTIS. And what was done about it?

Mr. KUEMPEL. Well, nothing was done. They sort of put a patrol on the area just to check and find out who was doing it.

Senator CURTIS. Did they find out?

Mr. KUEMPEL. No, they were not able to.

Senator CURTIS. Did you keep any of the notes that were written?

Mr. KUEMPEL. No, sir, I did not.

Senator CURTIS. What were they written on?

Mr. KUEMPEL. On the sub-flooring.

Senator CURTIS. They were written on the flooring?

Mr. KUEMPEL. Yes, sir.

Senator CURTIS. Not on a piece of paper?

Mr. KUEMPEL. Oh, no; right on the floor.

Senator CURTIS. They are all covered up now?

Mr. KUEMPEL. Yes, sir.

Senator CURTIS. They wrote with a crayon?

Mr. KUEMPEL. With crayon, that is right.

Senator CURTIS. As best as you can remember, what did they say?

Mr. KUEMPEL. I believe I don't remember definitely the wording, but "Stop using Kohler products."

Senator CURTIS. How much would have been your loss had the Kohler Co. not replaced these tubs?

Mr. KUEMPEL. Five tubs at about \$90 offhand, and the charge for installation, maybe about \$650.

Senator CURTIS. When you take these contracts, you let the plumbing out for subcontracting?

Mr. KUEMPEL. That is right.

Senator CURTIS. Do you let all of the rest of the construction out?

Mr. KUEMPEL. No, I maintain my own carpenters.

Senator CURTIS. Your own carpenters?

Mr. KUEMPEL. That is right.

Senator CURTIS. How big an operator are you?

Mr. KUEMPEL. About 20 houses a year.

Senator CURTIS. About 20 houses a year?

Mr. KUEMPEL. That is right.

Senator CURTIS. And how long after did you continue to use Kohler?

Mr. KUEMPEL. Well, I stopped at that particular time and resorted to American Standard when we finished up the rest of them.

Senator CURTIS. Why did you feel that you must make that switch?

Mr. KUEMPEL. Well, to stop any other encounter of any vandalism or whatever prevailed.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Is there anything further?

If not, thank you.

Call the next witness.

Mr. KENNEDY. Mr. Charles Link.

The CHAIRMAN. You do solemnly swear that the evidence you shall give before this Senate Select Committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. LINK. I do.

TESTIMONY OF CHARLES LINK

The CHAIRMAN. Be seated. State your name and place of residence, and your business or occupation.

Mr. LINK. Charles H. Link, Jackson, Mich. My place of business is Link Co., 414 North Blackstone Street, Jackson.

The CHAIRMAN. You waive counsel, do you, Mr. Link?

Mr. LINK. I do.

The CHAIRMAN. Are you a member of any union?

Mr. LINK. No, sir.

The CHAIRMAN. Have you ever been?

Mr. LINK. No, sir.

The CHAIRMAN. Are you in the contracting business?

Mr. LINK. No, sir. I am a wholesaler. I am a supplier, I am a distributor.

The CHAIRMAN. You are a distributor?

Mr. LINK. That is correct.

The CHAIRMAN. All right, Mr. Kennedy.

Mr. KENNEDY. You distribute Kohler products?

Mr. LINK. That is right.

Mr. KENNEDY. Do you distribute anything other than Kohler products?

Mr. LINK. Yes, sir, the general line of plumbing and heating materials.

Mr. KENNEDY. Were you approached on or about December 26, 1956, by union representatives about your use of Kohler products?

Mr. LINK. Yes, sir, I was.

Mr. KENNEDY. And amongst those who came to see you was John Archibalt?

Mr. LINK. Of the UAW? Yes, sir.

Mr. KENNEDY. And Leo Brannix, business agent from Local 351 of the plumbers?

Mr. LINK. That is correct.

Mr. KENNEDY. And two other representatives of the CIO locals, is that right?

Mr. LINK. That is correct.

Mr. KENNEDY. Were they UAW locals, the two other men?

Mr. LINK. They were, I believe.

Mr. KENNEDY. And they asked you to cooperate in the boycott of the Kohler products?

Mr. LINK. That is correct.

Mr. KENNEDY. And not to use the Kohler products, is that right?

Mr. LINK. That is correct.

Mr. KENNEDY. What did you tell them at that time?

Mr. LINK. "No."

Mr. KENNEDY. You told them you would continue to use Kohler products?

Mr. LINK. That is correct.

Mr. KENNEDY. Did they threaten you at that time?

Mr. LINK. No.

Mr. KENNEDY. Did they tell you anything harmful would happen to you if you continued to use Kohler?

Mr. LINK. No.

Mr. KENNEDY. They had a conversation with you not to use them and you said you would use them anyway?

Mr. LINK. That is correct. They got up and walked out of my office after I told them no.

Mr. KENNEDY. Were they angry at the time?

Mr. LINK. I don't know.

Mr. KENNEDY. On January 11, approximately, did pickets appear at your place of business?

Mr. LINK. They did.

Mr. KENNEDY. Two pickets appeared that morning?

Mr. LINK. That is correct.

Mr. KENNEDY. And they started picketing your place?

Mr. LINK. That is correct.

Mr. KENNEDY. And they were Vincent J. Brackin, one of the men that had come to see you—

Mr. LINK. No, Brannick was not one of the original people that called on me. Vincent Brackin is the president of the CIO council, Jackson County Council.

Mr. KENNEDY. This is Vincent Brannick; the other man who came to see you is Leo Brannick, is that correct?

Mr. LINK. That is correct.

Mr. KENNEDY. Vincent Brackin, president of Jackson County CIO Council was one of the pickets and the other was Carl Acker?

Mr. LINK. That is correct.

Mr. KENNEDY. And they carried signs, did they?

Mr. LINK. That is correct.

Mr. KENNEDY. And the sign said, "Don't buy Kohler fixtures and fittings, made by scabs, sold by Link Co.," is that correct?

Mr. LINK. That is correct.

Mr. KENNEDY. And they marched up and down in front of your company?

Mr. LINK. Yes.

Mr. KENNEDY. Did they say anything to anybody going into your company, into your place of business?

Mr. LINK. They talked to some people as they arrived or in front of the store and talked to some people as they left the store. These were customers or employees of customers. They occasionally talked to some truck drivers that were attempting to deliver merchandise to the store or incoming freight.

Mr. KENNEDY. Did they urge them not to go into your store?

Mr. LINK. The results of those conversations is difficult. The problem was they were attempting to tell the people not to buy Kohler, implying not to buy from Link Co.

Mr. KENNEDY. Did they cause any damage to your shop?

Mr. LINK. No, sir. There was no physical violence or damage.

Mr. KENNEDY. Had they threatened anybody that went into the shop?

Mr. LINK. Not that I saw.

Mr. KENNEDY. Did the pickets continue after January 11?

Mr. LINK. The pickets continued until January 17. At that time, they were served with an injunction and a temporary injunction.

Mr. KENNEDY. So they continued steadily from January 11 to January 17?

Mr. LINK. The 11th was a Friday. The next Monday—

Mr. KENNEDY. The 14th?

Mr. LINK. A regular working day, the picket line was there. It was there every day until the injunction was served.

Mr. KENNEDY. Did they take down the license plate numbers of those that were—

Mr. LINK. The pickets engaged in jotting down license plates or other identification information of almost all vehicles that parked in front of my place of business.

Mr. KENNEDY. And what was done with that list, do you know?

Mr. LINK. Some of it we knew was read off in union meetings.

Mr. KENNEDY. The list of those people who were using your company?

Mr. LINK. That is correct.

Mr. KENNEDY. Or visiting your company? Any customers of yours who drove cars and who could be identified, their names were read off at a meeting of the Plumbers Union?

Mr. LINK. That is correct.

MR. KENNEDY. Did you find that out? That was reported to you?

MR. LINK. That was reported to me.

MR. KENNEDY. Did Mr. Archibalt come back again; do you know?

MR. LINK. No; I never saw Mr. Archibalt after that.

MR. KENNEDY. Did his automobile? Were you able to identify his automobile?

MR. LINK. Yes. The persons who seemed to be controlling the operations of the picket, or picket line, whichever you want to call it, that were giving them instructions, picking them up and transporting them back and forth and periodically checking it, we noted the license numbers of some of those vehicles.

One of those vehicles was registered to John Archibalt.

MR. KENNEDY. You got an injunction on January 16?

MR. LINK. That is correct.

MR. KENNEDY. And that enjoined the pickets from picketing your establishment?

MR. LINK. That is correct.

MR. KENNEDY. And then, subsequent to that, a secondary boycott charge was filed with the National Labor Relations Board?

MR. LINK. That is correct.

MR. KENNEDY. Directed against these same people, is that right?

MR. LINK. That is right.

MR. KENNEDY. And you did not proceed with that case because this group, the defendants, made a consent agreement to agree not to discourage employees of the Link Co. by picketing, is that right?

MR. LINK. That is correct, an agreement of that nature was reached.

MR. KENNEDY. Who was that aimed against?

Who were the defendants? John Archibalt of the CIO?

MR. LINK. No. The defendants were the officers of the Jackson County CIO council. That is the only CIO organization we could pin down at that time. Brannick, Vincent Brannick was president of it. Our bill of complaint listed those people, their names, John Doe and Mary Roe.

MR. KENNEDY. But they are representatives of the CIO and they are the ones that agreed to discontinue this picketing?

MR. LINK. That is correct. The agreement was signed by a later president, a man by the name of Mr. Paul, who superseded Mr. Brannick in an election.

MR. KENNEDY. And they agreed to discontinue the picketing; is that correct?

MR. LINK. That is correct.

MR. KENNEDY. Did you have any trouble or difficulty after that?

MR. LINK. Nothing in a direct manner.

MR. KENNEDY. The picketing ended?

MR. LINK. That is correct.

MR. KENNEDY. Did you have any problem or difficulty indirectly?

MR. LINK. Nothing on an organized basis.

MR. KENNEDY. What do you mean by that?

MR. LINK. Well, your implication there of a picket and the promotion of a boycott was always present and it still is present today.

MR. KENNEDY. Did anybody make any statements to you to that effect, that you would have another picket line?

Mr. LINK. No. No, there was no other intimidation or any reference whatsoever to picketing on an organized basis after the agreements.

Mr. KENNEDY. Was there reference to picketing on an unorganized basis?

Mr. LINK. No.

Mr. KENNEDY. What you mean is that that problem or difficulty was always—

Mr. LINK. It ceased. We considered the case closed.

Mr. KENNEDY. But there was always that problem that there might be picketing, it was always present in this controversy?

Mr. LINK. It may have been. The picket—I mean the agreement was confined strictly to Jackson County.

Mr. KENNEDY. What I asked you was did you have any trouble or difficulty after that?

Mr. LINK. No.

Mr. KENNEDY. The answer is “No”, you had no more trouble?

Mr. LINK. No, sir.

Mr. KENNEDY. All right.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. What union was it that entered into the agreement that resulted in the consent decree?

Mr. LINK. It was a group of unions.

Senator CURTIS. A group of union?

Mr. LINK. A group of UAW-CIO unions, the group consisting of members of the local unions belonging to the Jackson Council, Jackson County Council. In other words, it is a rather loose organization.

Senator CURTIS. Did the head of the council sign for all of them in the agreement?

Mr. LINK. That is correct, the president.

Senator CURTIS. Who represented the company in that case?

Mr. LINK. Who did?

Senator CURTIS. Yes, what attorney?

Mr. LINK. My attorney was John Anderson of Jackson.

Senator CURTIS. Who represented the defendants?

Mr. LINK. I do not know.

Senator CURTIS. You do not know.

Now, is Link Co. a corporation or a partnership?

Mr. LINK. No; it is a partnership.

Senator CURTIS. You are one of the owners, one of the partners?

Mr. LINK. That is correct.

Senator CURTIS. How large is your establishment?

Mr. LINK. How large?

Senator CURTIS. Yes, how many employees do you have?

Mr. LINK. I have 10 employees.

Senator CURTIS. You have 10 employees; and do you sell anything besides plumbing supplies?

Mr. LINK. Plumbing supplies, generally, pipe fitting and valves, other plumbing fixtures, anything else that goes along that field.

Senator CURTIS. For how long a time have you carried Kohler fixtures?

Mr. LINK. Approximately 25 years.

Senator CURTIS. Have you done any advertising in that time?

Mr. LINK. Yes, we have.

Senator CURTIS. You have featured the Kohler products in your advertising?

Mr. LINK. Yes, we have.

Senator CURTIS. Have you carried a full line of Kohler products?

Mr. LINK. That is correct. I have for a good many years.

Senator CURTIS. Have you carried a full line of other plumbing?

Mr. LINK. A partial line of Briggs Manufacturing.

Senator CURTIS. Did you, yourself, observe this jotting down of license numbers of people who came?

Mr. LINK. Yes, I did. Other employees did, too.

Senator CURTIS. And did they jot down license numbers of everybody they could that came in there, regardless of what their errand was in your store?

Mr. LINK. That seemed to be the standard procedure for the picket on duty, to note down all arriving vehicles of people entering our store. The picket would wait until such time—usually until such time as the occupant of the vehicle left and entered my store. Then he would walk over and jot down the number and walk back to his own vehicle or to assume his route of march that they had.

Senator CURTIS. Did that constitute a harassment of customers?

Mr. LINK. An intimidation.

Senator CURTIS. Probably a few people did not pay any attention to it?

Mr. LINK. That is correct.

Senator CURTIS. But a number of them, the customers, would be timid about going through such an ordeal, would they not?

Mr. LINK. In other words, customers would be reluctant to enter my premises for the purpose of picking up merchandise. That was obvious.

Senator CURTIS. Did any evidence come to you that the impression might be given that you had labor difficulties or that there were charges against you that you were unfair in some labor matter?

Mr. LINK. That was not indicated from the posters that they carried. It was not necessarily indicated with any conversation we could have with them or, particularly, with any other personnel. It was not indicated in conversation with our customers.

In talking with our customers, we pointed that fact out. My clientele is a continuous turnover of the same clientele. It is not new every day. It is the same clientele, day in and day out, year in and year out, primarily.

They know that I am not a union house as a matter of course.

The CHAIRMAN. A what?

Mr. LINK. A union house. I have no union in my organization.

Senator CURTIS. You have 10 employees?

Mr. LINK. That is correct.

Senator CURTIS. And you have a retail establishment?

Mr. LINK. No; it is not retail. It is wholesale.

Senator CURTIS. It is all wholesale?

Mr. LINK. That is correct, sir.

Senator CURTIS. Those 10 employees are the people who work in the business, salesmen and so forth.

Mr. LINK. That is correct.

Senator CURTIS. They do not work in the building trades?

Mr. LINK. No.

Senator CURTIS. You do not do construction work?

Mr. LINK. No.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. All right; thank you very much.

The committee will stand in recess until 10:30 a. m. tomorrow.

(Whereupon, at 4:47 p. m., the hearing in the above-entitled matter was recessed, to reconvene at 10:00 a. m., on the following day.)

(Members of the select committee present at the taking of the recess were Senators McClellan and Curtis.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

TUESDAY, MARCH 25, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee met at 10:50 a. m., pursuant to Senate Resolution 221, agreed to January 29, 1958, in the caucus room, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senators John L. McClellan, Democrat, Arkansas; John F. Kennedy, Democrat, Massachusetts; Barry Goldwater, Republican, Arizona; Karl E. Mundt, Republican, South Dakota; Carl T. Curtis, Republican, Nebraska; and Sam J. Ervin, Jr., Democrat, North Carolina.

Also present: Robert F. Kennedy, Chief Counsel; Jerome S. Adlerman, Assistant Chief Counsel; John J. McGovern, Assistant Counsel; and Ruth Young Watt, Chief Clerk.

The CHAIRMAN. The committee will come to order.

(Members of the select committee present at the convening of the session: Senators McClellan, Curtis, Goldwater, and Mundt.)

The CHAIRMAN. Mr. Kennedy, call the next witness.

Mr. KENNEDY. I believe Senator Goldwater has a statement to make.

The CHAIRMAN. I beg your pardon. Senator Goldwater.

Senator GOLDWATER. Mr. Chairman, I have a prepared statement that I want to read. I will not be too long.

Mr. Chairman and members of the committee:

During this long hearing into what I consider to be a very important phase of labor-management relations, I have been extremely patient with the repeated outbursts of the counsel for the UAW-CIO, Mr. Rauh.

I had intended to allow several instances to pass without my comment, feeling that Mr. Rauh might have engaged in them through overzealousness but, Mr. Chairman, when Mr. Rauh arose in this hearing room yesterday and accused Senators Mundt, Curtis, and myself of being biased and unfair during these hearings, I decide that patience would have to stand aside.

I, as one member of this committee, and speaking only for myself, have had more than enough of Mr. Rauh's misleading statements in the hearing before this Senate committee.

He well knows that his function here, in representing one of the two parties in this case, should be to assist the committee and its staff

in interpreting the law, seeing that factual evidence is presented, and in providing those he represents with proper legal counsel.

I, and the other members of this committee, welcome the help and assistance of counsel when his conduct of the case is kept in orthodox channels.

But Mr. Rauh has time after time attempted to mislead this committee with misstatements of fact that have been, at times, presented without his being sworn.

He has also made a wild and irresponsible statement concerning Senator Curtis, a member of this committee.

Some of his statements have been so erroneous, and they have occurred with such frequency, as to force me to come to the reluctant conclusion that this is being done deliberately.

This committee of the United States Senate should, under no circumstances, be forced to sit here and accept this sort of irresponsible conduct on the part of an attorney representing one of the parties.

Now, Mr. Chairman, the counsel for the UAW has shown numerous evidences for his disregard for the members of this committee.

An instance of this occurred when the committee had Witness Robert Burkhart, international representative of the United Auto Workers Union, before it on March 4, 1958.

On that occasion, Counsel Rauh charged Senator Curtis with attempting to smear the witness Burkhart and Mrs. Burkhart.

Now it is my opinion, and I believe the dictionary supports me in this, that the use of the term "smear" in this case could only mean the utterance of an untruth—that Senator Curtis, a member of the committee, had uttered an untruth.

We know, as Mr. Rauh undoubtedly knew, that in the light of Burkhart's background—his political affiliations and his private life—Senator Curtis was trying to establish Burkhart's credibility as a witness in this investigation and that what was elicited about Mr. Burkhart's private life was the truth.

I now call the chairman's attention to these additional facts that relate to Counsel Rauh's participation in the present investigation: February 26, 1958.

Mr. Graskamp, UAW, had testified that a Federal Board, in 1934, had held that the Kohler Workers Association was a company-dominated union. I quote:

Mr. RAUH. We have the document here that Senator Goldwater has been asking about. It is Case No. 115; hearing, September 8, 1934; decision, September 15, 1934; before the National Labor Relations Board; under the old NRA. And if Senator Goldwater would like to insert this or the particular paragraph we would be happy to do so.

It does say this is a company dominated union.

Senator GOLDWATER. I was interested in the year, and I was confused with 1934 and 1952.

The CHAIRMAN. 1934 is before the enactment of the Wagner Act, and this was under the old NRA?

Mr. RAUH. Yes; that is correct.

The CHAIRMAN. The one that had the eagle spread out?

Mr. RAUH. Yes. (Transcript February 26, 1958, pp. 77-78.)

Mr. Chairman, I charge that Mr. Rauh, in this instance, was guilty of an attempt to mislead this committee. He offered a public record of the year 1934 to show that the KWA was a company-dominated union.

He did not even mention other public records though he must have known of their existence, that showed that for the 17 years during which KWA represented Kohler's employees, from 1934 to 1952, it was a perfectly legitimate, completely independent labor union and had been so certified by the appropriate public agencies.

The trial examiner, in his intermediate report in the pending NLRB Kohler case, pointed out, on page 5 thereof: (1) that in 1934, KWA won an NLRB election and that the same NLRB to which Mr. Rauh referred, on March 26, 1935, directed Kohler to recognize KWA; (2) that in 1946, the Wisconsin Employment Relations Board (WERB) held an election between KWA and AFL which KWA won and was certified by the WERB; (3) that in March, 1951, the Wagner Act National Labor Relations Board conducted an election between KWA which as a result thereof, was certified by the NLRB as the legitimate bargaining agent of the Kohler employees. As a matter of fact, even in the election of 1952, which the UAW won against KWA, KWA could not have appeared on the NLRB ballot if it had been a company-dominated union.

Moreover, during that entire period, there is no evidence that anyone, no, not even the UAW, either before or after it lost the NLRB election in 1951, ever filed a charge with any appropriate government agency, State or Federal, alleging that KWA was company dominated. See also pages 134-136, transcript of Feb. 26, 1958.

Mr. Chairman, that is not all. Mr. Rauh not only attempted to mislead this committee, and the press and the public as well no doubt, by his omissions of these public records. In his statement, referring to the 1934 record he submitted, he said, and I quote:

"It does say this is a company-dominated union," and by the use of the present tense, as well as his omissions, clearly implied that KWA continued permanently thereafter to be company dominated.

We come now to a second example of Mr. Rauh's inaccuracy and its effect of misleading this committee, but more particularly the American public. The chairman, on February 27, 1958, called for the showing of the moving pictures made by the Kohler Company.

Mr. Rauh objected, and I quote from the transcript, pages 290-291:

Mr. RAUH. Mr. Chairman, the union requests the right to inspect the motion pictures before they are shown on several grounds, if the Chairman please.

The company used at the NLRB hearing a cropped photo.

The CHAIRMAN. Just a moment, I am going to conduct the hearings just as fairly as I know how, but I want you to understand now, we are not going to let either the union or company run this proceeding.

Mr. RAUH. I am not asking to run it. I am asking to be heard for 1 minute on this request: That is, that we be allowed to inspect the movie before it is shown, because there is prima facie evidence, and I think if I could examine the man who took these movies, that these movies are a cropped part of a number of reels.

This is, I believe, about 1 reel out of 12. It could not possibly tell the whole story, and they should put on all of the movies or none, but they shouldn't be allowed to put on part.

Now, at the National Labor Relations Board hearing the examiner found that these movies were unreliable, and untrustworthy, and to use them without letting us see which ones they are and produce a witness to the fact that these are cropped photos, seems to us unfair.

Now, Mr. Chairman, I wish to point out the gross inaccuracies in the statement by Mr. Rauh from which I have just quoted. He asserted that these films had been shown before the trial examiner in the

NLRB hearing. As a matter of fact, as Mr. O'Neil of the Kohler Co. testified under oath on page 300 of the transcript, and without contradiction, these films had never been shown before.

True, there were films shown in the NLRB hearing, but they were not these films; the NLRB films involved another picket line almost 8 months later. But so eager was Mr. Rauh to discredit the films shown to us, that he relied on a statement made by the trial examiner in connection with a completely different film.

The trial examiner in referring to this completely different film said on page 73 of his intermediate report, and I quote:

The General Counsel (of the NLRB) called an expert witness, Henry Ushijima, who had made a careful examination both of the reels which respondent offered and of a substantial portion of the dozen reels from which it had been compiled.

That, Mr. Chairman, is where Mr. Rauh must have gotten his notion that the films we saw was only 1 reel out of 12 rather than the 900 feet out of 1,300 that it actually was. But that, Mr. Chairman, is not all.

Not only did Mr. Rauh misrepresent the movie we saw, he misrepresented the movie shown to the trial examiner in the NLRB hearing. He characterized the trial examiner as having found the movie, and I quote, "unreliable and untrustworthy." Here is what the trial examiner said on page 73 of his intermediate report in connection with the movie which this Committee did not see:

The movie film was of no great value under all the circumstances which surrounded its preparation and identification; it is worthless as evidence of identification of particular strikers in particular incidents and as to their actual commission of alleged acts of misconduct.

Note the examiner's language well.

He did not say the film was as Mr. Rauh put it "unreliable and untrustworthy." He said it was worthless for a particular purpose, to wit,

as evidence of identification of particular strikers in particular incidents.

But he did go on to point out, that in other respects, the film was of considerable value and hence of reliability. I quote from his report on the same page:

What the film does show, however, is that there were incidents in front of the employment office when groups of pickets were actively engaged in blocking, pushing, shoving and otherwise impeding the entrance of persons into the (Kohler) employment office. It thus offers general corroboration of respondent's (Kohler's) witnesses that such incidents occurred and it refutes similarly general testimony by some of the General Counsel's witnesses that all the pickets did was to stand and engage the job seekers in conversation. Thus, what the movie does, is to supply the element of motion, missing of necessity from the still photographs, which could show the participants only as frozen.

I ask the chairman and members of this committee if this sounds like a description by the trial examiner of an "unreliable and untrustworthy" film as attributed to him by Mr. Rauh.

March 5, 1958.

Another instance in which Mr. Rauh on March 5, 1958, attempted to mislead this committee, Mr. Chairman, is found on page 1025 of the transcript. There he stated as follows:

Mr. Chairman, that statement was given by the man's wife, of the man who perpetrated the hoax at the request of Kohler Co.

Again on page 1029 of the transcript Mr. Rauh stated :

I don't know what more substantial evidence we could produce here than the man's wife's own statement to the district attorney that this was a hoax perpetrated by three Kohler men.

In referring to the statement made by the wife, it will be noted that it contains no reference to an alleged hoax perpetrated by the Kohler Co. In fact, the word hoax does not even appear in the statement. It was just Attorney Rauh's irresponsible assumption, made when he was not under oath before the committee.

(At this point, Senator Kennedy entered the hearing room.)

Senator GOLDWATER. Sworn testimony by Witness Gerard A. Desmond indicated that the firing into the side of the garage at the Joyce farm was carried out as part of the Kohler Co.'s investigation of the reported incident and was done only to establish a shotgun pattern at the range described by Joyce in his report of having shot at an intruder. This test was made some time after Henry Joyce, Jr., first reported that a shooting incident had occurred in the yard of his home.

On page 1177 of the transcript Mr. Rauh, again making a statement not under oath, further misled the committee by declaring that the statement of Mr. Joyce was given on the day after Joyce reported the purported incident.

As the statement indicates on its face, and as Mr. Lyman C. Conger pointed out, on page 1179 of the transcript, the statement is dated January 8, 1955, but Joyce had reported to the company that the so-called incident took place on January 4, 1955.

Mr. Rauh, in a further attempt to mislead the committee, on page 1414 said :

Dr. Simonson, I understand is a pediatrician in Sheboygan and on page 1415 he stated :

Mr. Chairman, I didn't slander this man. I said he was a pediatrician. There are a lot of people who go around bragging about that.

The misleading effect of these statements by Mr. Rauh is shown by the affidavit of Dr. Lloyd M. Simonson in which he said he is a duly, legally practicing physician and surgeon of the State of Wisconsin. It is submitted that if he was a pediatrician it would be so indicated in his affidavit, set forth in the record on page 1418.

March 5, 1958.

In yet another instance, on March 5, 1958, and as shown in pages 1025 and 1034 of the transcript, Counsel Rauh attempted to convince this committee that the 846 affidavits in this case relating to acts of violence that range from paint bombings of employees' homes to the dynamiting of automobiles and the beating and maiming of persons who wished to work and earn a living, really alluded to nothing more than nuisance telephone calls—"a kind of a joke"—as he termed it in his reply to me.

This startling statement was made by the UAW counsel after much sworn testimony had been put into the record by witnesses—the victims of these attacks of violence—who were under oath.

Mr. Rauh was not under oath when he thus attempted to mislead the members of the committee.

I wish to mention one more incident which preceded the confusing and misleading information we have been given by the representatives of the union and their attorney.

On the morning of March 6, 1958, Mr. Conger brought to the attention of the committee, an obscene statement made to him by Mr. Mazey as he was leaving the witness chair. Mr. Rauh jumped to his feet and made the following statement which I quote from the transcript.

Mr. RAUH. Mr. Conger stated a lie. (P. 1255)

Again on page 1258, Mr. Rauh said :

I would like to say that what occasioned the incident yesterday, sir, was that Mr. Conger told Mr. Mazey, and it was that I wanted to bring before this committee, that Mr. Conger admitted to Mr. Mazey that he had been following him, and it seemed to me that was something your committee should know, that this man who is testifying here had our secretary-treasurer shadowed.

Now, Mr. Chairman, the UAW itself put out a news release following this incident, which stated that Mr. Mazey spoke to Mr. Conger first, and not the other way around, as Mr. Rauh had declared.

Moreover, Mr. Conger did not say, as Mr. Rauh indicated that he was having Mr. Mazey followed. What he did say was in reply to Mr. Mazey's question to him as to whether Mr. Conger was having him followed, was "Not now."

Mr. Conger did not lie as Mr. Rauh asserted, as usual when not under oath.

I think, Mr. Chairman, that the members of this committee have been long suffering in connection with Mr. Rauh's conduct during these hearings. I think it is time to call a halt.

Mr. Chairman, this concludes my statement, at this time, Mr. Chairman, however, I reserve the right to comment further after we have had an opportunity to personally cross-examine an affiant, Mr. Deis, whose affidavit was submitted by the UAW-CIO.

Mr. RAUH. Mr. Chairman?

The CHAIRMAN. Does any other member of the committee want to be heard?

Senator MUNDT. Not unless the Chair proposes to hear Mr. Rauh, to make this a protracted debate, in which case we might like to be heard.

But it seems to me that we should get on with examining witnesses.

Senator KENNEDY. In view of the statements that have been heard, Mr. Chairman, I think Mr. Rauh ought to be heard. This makes very serious allegations against Mr. Rauh's integrity.

I think he should have equal time to Senator Goldwater.

The CHAIRMAN. Let the Chair make this observation. On yesterday, Mr. Rauh stated—first I thought he was implying that the whole committee or the Chair had been unfair, and when I interrupted him to ascertain exactly what he meant, he said he did not mean the Chair had been unfair, but that three members of the committee, I believe was his language, had been unfair, and, thereafter, Senator Curtis interrogated the witness as to who he meant when he said "three", and he named the three Senators, Senator Curtis, Senator Goldwater, and Senator Mundt.

Senator Curtis at that time made some brief comment, but virtually passed it by, but with the inference that he denied any such implications that he had been unfair. This morning Senator Goldwater comes

in and makes this long statement of some 10 pages, I believe, 9 pages or something, and before we proceed any further I would like to ascertain whether either of the other members of the committee wish to make any comment.

Senator MUNDT. Mr. Chairman?

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Mundt.

Senator MUNDT. It is precisely for that reason that I answered you as I did. I thought that Mr. Rauh conveniently chose the time when the Senator from South Dakota was out of the room to attack him. I had been here virtually all morning and virtually all afternoon, but he made no attack upon my fairness at that time, until after I left the committee room to go to another meeting.

He chose that time to try to make some derogatory statements about me. That may be fairness according to the ADA or according to Mr. Rauh, but it is not fairness according to me. When Senator Kennedy makes a protestation about the fairness to Mr. Rauh, it would seem to me that somebody might well protect a committee member who happens to be absent, when a counsel before a committee who, according to the rules, as I understand it, is there to give legal advice to counsel, and not either abuse or throw orchids to committee members.

But when he does those types of things, I am willing to pass it, unless the Chair desires to make this a debate between counsel and the members of the committee, in which instance I wish to participate, but at this time not until Mr. Rauh has spoken because I don't want to be shot in the back again.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. Mr. Chairman, I think it would be in the interest of clarity as well as fairness if before Mr. Rauh is heard, that he prepare a written answer to the written charges and that we take a look at them. These statements of Senator Goldwater are in writing, specified as to book and page. The witness brought it on himself. He made this attack yesterday. I am not objecting to him making an answer at some time, but I do think that we should require him to answer in writing, with the book and page of these things.

I don't believe that I waive my permanent right to protest as to what Mr. Rauh said yesterday, but I am not going to even exercise that now. I will do that later.

Senator KENNEDY. Mr. Chairman?

The CHAIRMAN. Just a moment. Do I understand the position of the three Republican members is they don't want Mr. Rauh to be heard?

Senator CURTIS. I said that I think he ought to answer the written charges in writing and submit them to the committee before he makes his request to be heard.

The CHAIRMAN. Is that the view of the other members?

Senator GOLDWATER. No, Mr. Chairman, I would just as soon have Mr. Rauh say what he wants to say right here.

The CHAIRMAN. How about you, Senator Mundt?

Senator MUNDT. I am perfectly willing to make this a debating society if the Chair so rules. I am not going to hold either way.

The CHAIRMAN. The Chair wants to rule. He want to find out what you folks want to do.

Senator MUNDT. I am going to say that if Mr. Rauh is permitted to give a speech, then I propose to answer him at the conclusion of his remarks if he remains, and, if not, when he comes back.

I will do it while he is here. I will not use the tactics of attacking an absentee. I was willing to pass all of this, because I thought we had a lot of witnesses to be heard. I am a little curious to know why we have counsel giving speeches in direct violation of every rule that the committee ever had. According to law, I think this would be acceptable, but I can find nothing in the rulebook to justify any of the acts of proceedings that Mr. Rauh has made, or the one that he is now bubbling to make. I am not going to protest, but I am certainly going to reserve my right to reply, if that is going to be the committee's procedure.

The CHAIRMAN. Mr. Rauh is a witness as well as counsel. He has been sworn and has been interrogated by members of the committee at different times. The Chair is only trying to ascertain now what is the pleasure of the committee.

Senator Kennedy.

Senator KENNEDY. I notice in looking at the testimony of yesterday, at page 3756, Mr. Rauh quoted a statement Mr. Emil Mazey had made, and then he said :

Now, the reason I have cited these 4 examples, is that any statement, hearsay statement, that is so full of errors as the 4 I have already given you, and particularly this last most unfair attack on Mr. Mazey because he wasn't even in Wisconsin, evidences, it seems to me, the mistake of this committee in taking a statement so full of hearsay.

I understand that the chairman said :

The Chair appreciates that it is possibly a mistake. But I am in a position here where if I don't let it in, I am charged with bias or prejudice toward one side or the other, and I don't have any either way. If one lets in a little hearsay, we will hear a little hearsay from some other source. Proceed.

Mr. RAUH. Thank you, sir. I hope the Chair will recognize that most of my remarks have been directed against three of the members of the committee, and that I, too, share the belief that the chairman is trying to be fair under difficult circumstances.

Senator Curtis asked who the three members were. Senator Mundt charged that Mr. Rauh attacked him while he was absent.

The fact is that Mr. Curtis asked for the identification. Mr. Rauh did not make it gratuitously. While that is Mr. Rauh's opinion, he can substantiate it if he feels he is able to. For Senator Goldwater to give a 9- or 10-page attack on Mr. Rauh and then for Senator Curtis to suggest that his answer should be in writing at some future date, which should be examined first by the committee before Mr. Rauh is permitted to make his answer, is most unfair.

I think Mr. Rauh ought to be able to make his answer now.

The CHAIRMAN. The Chair is going to permit the witness to have 2 minutes, and I am going to then proceed with the hearings, unless I am completely outvoted. Senator Mundt may have a minute or two to reply. I can't stop members of the committee.

This proceeding is getting to where we are getting nonproductive so far as the work of this committee is concerned. The Chair has made mistakes, and I have no doubt about that, in trying to preside over these hearings, but we should keep in mind, all of us, particularly those of us on the committee, that this committee has a terrific assign-

ment, an important job to do, and we are representatives of the United States Senate and of our Government.

We ought to proceed with as much deliberation as it is possible to get our work done.

Is there objection to hearing Mr. Rauh for 2 minutes?

The Chair hears none.

Mr. Rauh, you may proceed for 2 minutes. Make it brief and let's get along, because the Chair is not going to indulge much longer unless I am completely overruled by the committee.

TESTIMONY OF JOSEPH L. RAUH, JR.—Resumed

Mr. RAUH. Mr. Chairman, in the 2 minutes allowed me to respond to Senator Goldwater's 15- or 20-minute attack on me, it will be impossible, sir, to deal with the specifics, even though each specific—

The CHAIRMAN. The Chair is not going to deny you the right to file a statement if you want to. But for the moment, I want to make it very brief. I want to get on with the work of the committee.

Mr. RAUH. I understand, sir, and I sympathize with your problem, but 2 minutes to answer 15 or 20 is pretty hard, sir. I will do my best.

Senator KENNEDY. I move that Mr. Rauh be given 5 minutes.

Senator GOLDWATER. I will second that motion.

The CHAIRMAN. Is there objection to the motion?

The Chair hears none.

Mr. Rauh, you are given 5 minutes.

Mr. RAUH. Thank you, sir.

The CHAIRMAN. Beginning now.

Mr. RAUH. It is said in a lawsuit that if you have a weak case, you try the opposing counsel. I suggest to Senate Goldwater that he has a weak case, and, for that reason, he is trying me. When I say he has a weak case, I now challenge Senator Goldwater, Senator Curtis, and Senator Mundt, to name 1 question in a 5-week hearing that they have ever asked for the purpose of eliciting derogatory information against the Kohler Co. Instead of that, they have asked thousands, and I say thousands, of questions of UAW witnesses intended to bring out derogatory information.

They have not asked one question of the Kohler Co. witnesses intended to bring out derogatory information. In reverse, they have asked hundreds of questions of Kohler witnesses that I call homerun balls, put up for the purpose of allowing the Kohler Co. to state their position.

They have not asked one question favorable to the United Automobile Workers. Now for the specifics. As far as my duty to help the committee and the staff is concerned, I hope Mr. Robert Kennedy, counsel, will confirm that every witness they have asked for has been here at the exact moment that they were requested and that the United Automobile Workers has not asked that any witness be subpoenaed.

Every one has appeared at the exact moment requested and has answered every question asked of him. There has been no 5th amendment, no effort to withhold. It has been a completely cooperative venture.

Now as to the specifics. All I can say about No. 1, in my statement, is the going after Mr. Burkhardt was a smear, I believe it and repeat it.

I refer to Senator Kennedy's statement to the committee that this was despicable conduct that had been engaged in by the company in attacking Mr. Burkhart, and that Senator Curtis was using the company detective action in the same way.

As far as item No. 2, that I said this is a company-dominated union, it is certainly. The 1934 statement did show it was a company-dominated union. There has been no effort to withhold the fact that there was a change in the union.

In fact, two of the witnesses, beside whom I sat and whom I helped prepare to testify, with whom I discussed the case, both testified there was a change in late 1949, from a company-dominated union to another union.

As far as the question about the movies is concerned, Mr. Chairman, I will have to let the examiner's statement stand for itself. Senator Goldwater did not read the relevant part of the examiner's statement, which appears on page 73, in which he refers to Henry Ushijima's testimony that these movies were not useful in this proceeding as follows:

His testimony
referring to the expert

is accepted in its entirety. That testimony and the other evidence showed that the single reel had been prepared in such a manner that in many cases the scenes were fragmentized, that the entire effect was spasmodic and confusing, and that there was inadequate identification as to specific times and dates with the scenes shown thereon.

That was the basis of my statement that the movies were held unreliable and untrustworthy, and I think that statement was sound.

The next item is the hoax question. I said that Mrs. Joyce had indicated in her statement——

The CHAIRMAN. One minute.

Mr. RAUH. That this was a hoax. I stand by that.

Senator Goldwater, Curtis, or Mundt, I can't say which, asked that she be subpoenaed. We would be happy to have her subpoenaed. I have not seen her, but we would be glad to have her make the final decision. That I slandered Dr. Simonson by saying he was a pediatrician was based on Mr. Rabinovitz' statement that he takes care of his children. I certainly have never said anything indicating that I approved of violence. If I did, I now want to apologize anywhere.

If I made any indication that I approve of violence, that shocks me. It must have been a misstatement. I don't remember saying it, but I certainly believe as our entire union does, we want to condemn violence. I see my time is up. Thank you, sir.

The CHAIRMAN. Are there any questions?

Are there any statements?

If not, call the next witness.

Mr. KENNEDY. Mr. King.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. I have just a brief request for some information that I would like to read into the record to be supplied at a later time.

The CHAIRMAN. All right.

Come forward, Mr. King.

Go ahead, Senator.

Senator CURTIS. I will give a copy to Mr. Rauh.

Mr. Chairman, pursuant to our study of violence used as an organizing or bargaining technique in labor-management relations, I would like to have Mr. Walter Reuther furnish to this committee at the beginning of his testimony certain information described as follows:

1. A list of all the international representatives who have been commissioned, appointed, or designated by the UAW-CIO, together with a copy of the commission form used.

2. That each individual listed as an international representative be identified amply and that such identification include any aliases which might have been used by any of such representatives.

3. A list showing the instances in which each international representative has been designated to serve in a labor dispute, either directly participating in the dispute, or serving in an advisory or consultative capacity for any period of time whatsoever.

4. All information which the UAW-CIO has concerning the arrest of any international representative in connection with the commission of a misdemeanor or felony, either while serving as such representative or at any other time.

5. Copy of the constitution of the UAW-CIO.

The CHAIRMAN. Has a copy of that been supplied, Counsel?

Senator CURTIS. I have a copy for him and a copy for the reporter.

The CHAIRMAN. All right. It may be delivered to counsel.

I do not know, since Mr. Reuther is to appear here Thursday, I do not know whether he is going to have time to comply with that.

But I would urge counsel to advise Mr. Reuther to make every effort to comply with it by Thursday.

Mr. RAUH. I will do that. As you well know, sir, he is now in General Motors negotiations, but we will do our best to have anything we can.

The CHAIRMAN. Do your best.

Senator MUNDT?

Senator MUNDT. I am not going to take 2 minutes that the Chair suggested I utilize to reply to Mr. Rauh, at this time, other than to point out that I think the kind of performance we just had from him emphasizes the position of the Senator from South Dakota, that we do better in this committee room when we follow the committee rules and limit the counsel to the function that counsel has normally had in this committee room, to advise witnesses, instead of giving speeches, interrupting the proceedings and debating with the committee members.

I do hope that as the hearings continue we return to our committee rules. I don't know why Mr. Rauh has had this strange latitude that has been given no other counsel, but he certainly has abused it in my opinion. He abused it specifically when he said that the three members of the Republican Party—he apparently doesn't like the Republicans, because he spends most of his time trying to make this a political convention. Anyhow, he says the members of the Republican Party asked no questions of company officials receiving derogatory information. I think any fair-minded reader who will examine the questions I asked Lyman Conger when he was on the stand, will find that time after time I asked questions to elicit unfavorable information followed those questions.

As a matter of fact, when Congressman Hoffman appeared before us, 3 or 4 times, specifically, when he had misspoken himself and had accused the UAW of being involved in the strike, I straightened out the record by pointing out I did not believe the union involved could possibly be the UAW.

I got smiles of approval and approbation from Mr. Rauh on the occasion. The only smiles of approval or approbation Mr. Rauh has ever given the Senator from South Dakota in his whole entire lifetime came on that occasion. So he refuted his own testimony. Finally, let me say that I think we are going to find, when we examine the Chairman of the N. L. R. B. or his representative, another clear-cut where Mr. Rauh deliberately or because of lack of information, tried to mislead this committee repeatedly on the basis of what happened at the boycott and the cease and desist order.

The CHAIRMAN. The Chair wishes to make this statement. I have followed the rules of this committee as far as this committee will permit me to do so. I shall continue to do so. And as between Mr. Rauh and Mr. Conger, I have shown no partiality or no favoritism. I have permitted either of them or both of them to speak whenever they requested to do so, briefly, to state their position or to make a request on behalf of their client. I have also let them both appear here as witnesses. I challenge anybody to take this record and point out where I have been unfair to one and partial to the other.

All right.

Mr. Witness, stand and be sworn.

Mr. DUNN. No, Mr. Chairman, I am counsel for Mr. King and Local 75.

The CHAIRMAN. Witness, please stand up.

Do you solemnly swear that the testimony you shall give before this Senate Select Committee shall be the truth, the whole truth, and nothing but the truth so help you God?

Mr. KING. I do.

TESTIMONY OF ANTHONY J. KING, ACCOMPANIED BY COUNSEL THOMAS X. DUNN

The CHAIRMAN. State your name, your place of residence and your business or occupation.

Mr. KING. My name is Anthony J. King. I live at 2855 North Frederick Avenue, Milwaukee. I am a licensed journeyman plumber, occupied for the last 23 years representing the Plumbers & Gasfitters Union, Local No. 75, of the United Association of Apprentices and Pipefitters of the Plumbing and Pipefitting Industry.

The CHAIRMAN. You have counsel representing you?

Mr. KING. Yes, sir.

The CHAIRMAN. Identify yourself, Counsel.

Mr. DUNN. My name is Thomas X. Dunn. I am a member of the District of Columbia Bar. My office is in the Tower Building, Washington, D. C. I represent Local 75 and Mr. King.

The CHAIRMAN. Mr. Kennedy, proceed.

Mr. KENNEDY. Mr. King, do you know Mr. Richard Sharp?

Mr. KING. Yes, sir.

Mr. KENNEDY. Mr. Richard Sharp testified yesterday, regarding some contacts that he had with you personally and some contacts that

people working under him had with you. I would like to ask you about those things. The first one was on the Mitchell Field work that he was doing in Milwaukee, Wis. Are you familiar with that?

Mr. KING. Yes, sir.

Mr. KENNEDY. And he stated that he had 9 or 10 members of the Plumbers Union working under him. He testified to that yesterday.

Mr. KING. Mr. Sharp had plumbers working under him?

Mr. KENNEDY. Well, that they were working on the job, they were installing Kohler fixtures. He said, he testified, that one of them told him that he had received a telephone call from you saying that he should get off the job and not handle Kohler fixtures. Did that ever happen?

Mr. KING. That is not true.

Mr. KENNEDY. It did not happen?

Mr. KING. No, sir.

Mr. KENNEDY. You did not tell any of the plumbers working on the Mitchell Field job that they should get off and discontinue their work because you didn't want them to do work on Kohler fixtures?

Mr. KING. I never told them anything.

Mr. KENNEDY. Did you have any conversation with them at all about leaving their jobs?

Mr. KING. No, sir.

Mr. KENNEDY. You did not?

Mr. KING. No, sir.

Mr. KENNEDY. So that testimony of Mr. Sharp, that testimony that he gave before the committee is not correct, so far as you are concerned?

Mr. KING. It is not correct.

Mr. KENNEDY. He said another matter on which he was working was St. Luke's Hospital in Milwaukee.

Mr. KING. Yes, sir.

Mr. KENNEDY. And he testified there that the foreman of the job was a Mr. Papp.

(At this point, Senator Goldwater withdrew from the hearing room.)

Mr. KING. Yes.

Mr. KENNEDY. Do you know Mr. Papp?

Mr. KING. At Mitchell Field?

Mr. KENNEDY. No. This is St. Luke's Hospital. Did you know Mr. Papp?

Mr. KING. Yes, sir.

Mr. KENNEDY. He testified that Mr. Papp stated that he had received so many telephone calls from you threatening him that he left his job. Is that correct?

Mr. KING. That is not true.

Mr. KENNEDY. That the reason that you called him was you told him that he should not be handling Kohler fixtures.

Mr. KING. That is false.

Mr. KENNEDY. And that the Kohler fixtures were being installed at that time and that you told Mr. Papp that he should stay off the job and not handle Kohler fixtures?

Mr. KING. That is not true.

Mr. KENNEDY. And Mr. Papp then quit his job because of that. That is not correct?

Mr. KING. That is not correct.

Mr. KENNEDY. So that testimony also by Mr. Sharp is incorrect, is that right?

Mr. KING. That is right.

Mr. KENNEDY. And he then testified that he had a telephone conversation with you personally in which you told him that Kohler fixtures should not be handled. Did you tell him?

Mr. KING. No, sir.

Mr. KENNEDY. And that you told him in a conversation that he would have trouble if he tried to install Kohler fixtures at the St. Luke's hospital?

Mr. KING. Are you now talking about someone else other than Papp?

Mr. KENNEDY. Yes. Now we have gone through the incident at Mitchell Field, we have gone through the incident on Papp. Now I will ask you about some other conversations that you had personally with him regarding St. Luke's Hospital.

Mr. KING. With Mr. Sharp?

Mr. KENNEDY. With Mr. Sharp personally. Did you have a conversation with Mr. Sharp personally in which you stated that if he insisted on installing Kohler fixtures at the St. Luke's Hospital, that he would have trouble?

Mr. KING. I had a conversation with Mr. Sharp over the telephone when I learned that they were going to use Kohler fixtures from the other men on the job. I called Mr. Sharp and told him "I am afraid you are going to have difficulty getting men for the reason that I am already experiencing difficulty in furnishing men for those jobs where Kohler fixtures are being used now."

That is what I told Mr. Sharp.

Mr. KENNEDY. You didn't threaten him with trouble if he insisted on installing Kohler fixtures?

Mr. KING. No, sir. No, sir.

Mr. KENNEDY. So that testimony by Mr. Sharp or the installation of the testimony by Mr. Sharp that you threatened him, that if he did not agree to cease installing Kohler fixtures, that he would have trouble, and that you would not provide him men, is incorrect, is that right?

Mr. KING. Quite to the contrary. I furnished the men.

Mr. KENNEDY. Did you ever attempt to pull men off the job who were installing Kohler fixtures?

Mr. KING. No, sir.

(At this point, Senator Mundt withdrew from the hearing room.)

Mr. KENNEDY. Did you support the boycott program of the UAW against the Kohler fixtures?

Mr. KING. Yes, I supported the boycott. I support it now.

Mr. KENNEDY. Did you ever instruct any of the men that were working, members of your union, not to install Kohler fixtures?

Mr. KING. No, sir. Quite to the contrary, I told them that they will have to decide that issue themselves.

Mr. KENNEDY. But you never instructed them that they should not install Kohler fixtures?

Mr. KING. No, sir.

Mr. KENNEDY. Can you explain to the committee why Mr. Richard Sharp should come before the committee and give this testimony about you if it is incorrect?

Mr. KING. Well, Mr. Sharp and I have had a little difficulty. Mr. Sharp was 11 months behind in payment of his dues, and he eventually, when he quit at the Knab Plumbing Co., he went to another employer, and when he got there the journeymen plumbers ask each other about their dues book, they found out that his dues weren't paid, and they called me.

I told them I couldn't do anything about it. Evidently they did something about it, because some time after that Mr. Sharp came to the office and paid 6 months' dues.

He was still 5 months' dues behind. But at no time did I say anything to him other than to ask him when he was going to pay dues. I sent him statements showing that he only had 1 more month to go and he would be expelled for non-payment of dues. He then asked for a withdrawal card. According to our national constitution no one can get a withdrawal card who works at our industry in a shop where we have an agreement.

So our national organization denied the withdrawal card, and he was very vexed with me because of that.

Senator KENNEDY. Mr. Chairman?

The CHAIRMAN. Senator Kennedy.

Senator KENNEDY. Mr. King, you support the boycott?

Mr. KING. Yes, I do.

Senator KENNEDY. Did you attempt to communicate to the members of your local your sentiments on the boycott?

Mr. KING. I didn't get the question.

Senator KENNEDY. Did you communicate with the members of your union, your feelings about the boycott?

Mr. KING. No, sir.

Senator KENNEDY. You took no action?

Mr. KING. I get out a bulletin once a month, and in the bulletin I have made reference to the position of the American Federation of Labor national convention resolution. I have mentioned that in bulletins.

Senator KENNEDY. Did you have personal discussions with members of your union giving your sentiments about the boycott?

Mr. KING. Well, if a member comes to the union office to pay dues, or I met him on the job, the conversation usually goes this way: "I wish this Kohler situation would rectify itself. I don't like to handle it, and I wish there were more done about it."

It is usually the conversation comes from the member to me with respect to the boycott, urging people to do more about it, to intensify it.

Senator KENNEDY. In other words, you didn't make calls to call the plumbers off the jobs?

Mr. KING. I never went out of my way to discuss boycotts with anyone.

Senator KENNEDY. It seems to me it is sort of a fine line between your position as head of the union, directing your members to come off the line, in accordance with a boycott, which you say you didn't do, but in other ways communicating with them your personal feelings that the boycott should be maintained and be successful. You say it was the second position that you took.

You merely gave them your personal views, you expressed the conviction that the boycott should be successful, you expressed the hope

that it would be successful. Those are the sort of things that you did, but you did not order them; is that correct?

You took all action short of formally requesting them not to go off the job; is that correct?

Mr. KING. Yes. The legal counselor of our union has said on many occasions that each individual has a right to refuse to purchase Kohler fixtures or to tell his friends not to purchase Kohler fixtures. I consider all the members of our union friends of mine, and, therefore, I feel that I have the privilege to discuss anything with them as an individual.

Just because I happen to represent the union, I should not have my lips closed on different controversial subjects.

Senator KENNEDY. Where is the line between telling them not to go on the job and calling them off the job; where is the line between that and what you say that you did? What does your counsel tell you?

Mr. KING. I, in my official duties, do not tell anybody or try to influence anybody not to go to work in a particular shop. Never.

Senator KENNEDY. What is it you do? If you don't do it in your official duties, you do it as a personal matter; is that correct?

Mr. KING. Usually the other fellow asks me what is happening on the Kohler situation, and has something to tell me about it. That is usually the conversation.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. How do you support the boycott?

Mr. KING. By telling my friends not to purchase Kohler-made ware.

Senator CURTIS. How are plumbers provided and hired for the contractors in your area?

Mr. KING. Since the charter of our union was issued in 1891, the custom and practice has been, all during those years, long before I was a member of the union, for the employer to call the union office and inquire if there are any men available, and if the union didn't have the men, the employer was free to get them from whatever source he could get them from. That is precisely what he is doing and has done.

Senator CURTIS. In other words, the union provides employees if they need them?

Mr. KING. If we have men on our list who reported to the union that they are out of work, and they have asked us to procure employment for them, we will call contractors and inquire whether or not they could use a licensed journeyman plumber.

Senator CURTIS. Is the contractor also supplied a plumber if he needs one?

Mr. KING. A little louder, please.

Senator CURTIS. Is a contractor always supplied with a plumber if he needs one and there is not one working?

Mr. KING. If he needs one?

Senator CURTIS. Yes.

Mr. KING. To the best of our ability, we do. Our capacity to furnish plumbers at times just is not large enough to take care of the demand. For instance, we were 50 plumbers short at the time when St. Luke's Hospital was begun, and there were at least 40 contractors waiting for perhaps a total of 75 plumbers at the time.

So we scoured the entire country. We telephoned to States as far as Pennsylvania, Oklahoma—throughout the country. We sent telegrams to unions inquiring if there were any men available. We called our national office to ask them to alert all of the organizers throughout the country and tell them that we were urgently in need of journeymen plumbers.

We put a large ad in 73 weekly newspapers in Wisconsin, asking plumbers to come to Milwaukee, and telling them what the conditions were, the rate of pay, the welfare plan, the vacation plan, and so on. We did everything possible to furnish the trade with men. And if we couldn't furnish them, the employer was free to get them from whatever source he could get them from.

SENATOR CURTIS. My question is: Are there any circumstances where you withhold the furnishing of plumbers in response to a request, when, actually, the plumbers available in the area are not all employed?

MR. KING. No, sir. We never withhold any plumbers from any employer whatsoever.

SENATOR CURTIS. What is your policy in regard to this situation: You say that you are supporting the boycott, and that during part of this time in question, there was a shortage of plumbers. Suppose two contractors, both of them, we will assume, have a record favorable to labor in their own employment of people; one of them is about to install Kohler products, and another one is about to install products other than Kohler.

They make their request at the same time. Who gets the plumbers?

MR. KING. Senator, when the plumber comes to the office, he has the right to see the list. It is hanging there for him to look at. He chooses from the list the contractor he wants to go to. I do not tell him.

SENATOR CURTIS. Now coming back——

MR. KING. If I did, he would tell me pretty quick where to head in at.

SENATOR CURTIS. In other words, the individual plumber makes a choice?

MR. KING. Absolutely.

SENATOR CURTIS. Coming back to this disagreement as to what happened when Mr. Sharp was on the stand yesterday. I asked:

About when was this conversation with Mr. King?

MR. SHARP. It was right after we received the contract for St. Luke's Hospital, about a week following.

SENATOR CURTIS. And it was a telephone conversation?

MR. SHARP. Yes, it was.

SENATOR CURTIS. Where were you at the time you received it?

MR. SHARP. I was in the office.

SENATOR CURTIS. Of the Knab Co.?

MR. SHARP. Yes, sir.

SENATOR CURTIS. Who placed the call?

MR. SHARP. It was placed in the union hall.

SENATOR CURTIS. Did you call Mr. King or did he call you?

MR. SHARP. We got a call right from the union hall.

SENATOR CURTIS. And did they say who was calling?

MR. SHARP. Mr. King.

SENATOR CURTIS. And they meant Tony King, business agent for local 75?

MR. SHARP. That is correct.

Did that telephone conversation take place?

Mr. KING. Yes. I called Mr. Sharp at his office, as I said before, and told him that because of the Kohler fixtures being used on St. Luke's Hospital there would be difficulty, very likely, in trying to furnish licensed journeymen plumbers. I anticipated that because I already had the same difficulty trying to get journeymen plumbers to go to work on other jobs where Kohler fixtures were being used. That conversation—I didn't know that Mr. Knab was eavesdropping on the telephone, but it wouldn't have made any difference.

Senator CURTIS. You didn't know it the time that Mr. Knab was on the phone?

Mr. KING. Did I talk to Mr. Knab?

Senator CURTIS. I say at that time you didn't know that Mr. Knab was on the phone, too?

Mr. KING. No, sir.

Senator CURTIS. Is there any dispute about whether he was or not?

Mr. KING. Any what?

Senator CURTIS. Any dispute as to whether or not he was on the phone?

Mr. KING. No. It is immaterial.

Senator CURTIS. Then I said to him: "Now, repeat again just what did he say in this telephone conversation to you and Mr. Knab, or to you, and Mr. Knab heard it?"

Mr. SHARP. He said that on account of the Kohler fixtures on this thing—

Senator CURTIS. I can't hear you.

Mr. SHARP. He said that on account of the Kohler fixtures on the St. Luke's Hospital job, if we didn't advise the others to get rid of them, we were going to have trouble on the job, and he said "What do you mean" and he said "Well, you wouldn't get any men."

Did that conversation take place?

Mr. KING. No, the conversation was entirely different, as I have already related here.

I told him that because of the use of Kohler fixtures on the job, it would be difficult for me to procure licensed journeymen plumbers to install the work on that job.

Senator CURTIS. You are also vice president of the Milwaukee Building and Construction Trades Council?

Mr. KING. Yes, sir, and it is only a title, and I haven't any authority of any kind whatsoever.

Senator CURTIS. Mr. King, has local 75, and you as an individual, ever been restrained from interfering with the business operations of a plumbing contractor?

Mr. KING. Yes; one Mr. Taggets.

Senator CURTIS. About when was that? Was it about 1951?

Mr. KING. That is so long ago, my memory—

Senator CURTIS. I don't care for the exact date, but it was back some time ago?

Mr. KING. Yes, several years ago, and I believe about six.

Senator CURTIS. What were you restrained from doing?

Mr. KING. Well, I wasn't near the job. My associate working out of our union office, a business representative, went to this job to see who was doing the plumbing. All of the people on the job were members of the Milwaukee Building and Construction Trades Council, and there was no plumber on the job.

When he left the job, Mr. Taggets was on the sidewalk and engaged the business representative in a conversation. Immediately after that we were cited for unfair labor practice, and we were charged with coercing Mr. Taggets and we had a hearing before the Wisconsin Labor Board, and the Wisconsin Labor Board ruled that we were in violation of the Wisconsin Labor Act.

Senator CURTIS. Did that go to court?

Mr. KING. No, sir. My attorney tells me that the case is void because of some legal terminology which has to do with expiration of limitation, or something like that. I don't know the legal terminology.

Senator CURTIS. Have you ever advised the membership that they can refuse to install Kohler fixtures on an individual basis, without violating the law?

Mr. KING. I have advised them that they have a right to refuse to install any kind of fixture or any kind of material. As an American citizen they have that right.

Senator CURTIS. Have you had any conferences or meetings with representatives of the UAW concerning the boycott?

Mr. KING. No, sir.

Senator CURTIS. Have any ads been published indicating cooperation between plumbers and the UAW?

Mr. KING. Not to my knowledge; and our local union had nothing to do with it.

Senator CURTIS. Will you identify that, please?

The CHAIRMAN. The Chair presents to you what appears to be a newspaper advertisement in the Sheboygan [Wis.] Press of Tuesday, June 22, 1954, and I will ask you to examine it and state if you identify it.

(A document was handed to the witness.)

The CHAIRMAN. Do you identify the advertisement?

Mr. KING. Yes; that has nothing to do with local No. 75.

The CHAIRMAN. But you do recognize that as an advertisement in the paper?

Mr. KING. Yes, but we had nothing to do with it.

The CHAIRMAN. It may be made exhibit 125.

(Document referred to was marked "Exhibit No. 125" for reference and may be found in the files of the select committee.)

The CHAIRMAN. That is for reference.

Mr. KING. We don't know anything about that ad at all, or the reason that they have the picture there either, and I don't know why they have the picture there either.

Senator CURTIS. This exhibit 122 comes from the Sheboygan Press of June 22, 1954, and it is a 1-page ad, I believe, and it says at the top, "Plumbers and Kohler Workers Confer on the Strike."

Did you recognize anybody in that picture?

Mr. KING. I think I recognized all of the AFL people, and my own picture.

Senator CURTIS. And you are in the picture?

Mr. KING. Yes, sir.

Senator CURTIS. Name the others that you recognized?

Mr. KING. George Holloman, president of the State Federation of Labor; and I have to look at it again, Senator.

Senator CURTIS. I will hand it back to you in just a moment. I will read something and then I will be through with it myself. In the box it says this:

Labor unity in action. The AFL plumbers, pipefitters and steamfitters invited the Kohler workers to send representatives for a discussion on the strike issue with the leading AFL officials during the Wisconsin Pipe Trade Convention. Left to right are: David Rabinovitz, Kohler local 833 attorney; Allan Grasskamp, Kohler local 833 president; Peter Schoeman, assistant to the president, AFL Plumbers and Steamfitters International Union; Jerry Enright, president of the Wisconsin Pipe Trade Association; Anthony King, Secretary of the Association; E. W. Bradshaw, AFL plumber general organizer; George Haberman, president of the Wisconsin State Federation of Labor, 237,000 members; Jacob Friedrich, secretary-treasurer of the Milwaukee Federated Trade Council, 85,000 members; Robert Burkhart, UAW-CIO international representative; and William Rawling, Kohler local 837 steward and council chairman.

(A document was handed to the witness.)

Senator CURTIS. Now, did you discuss ways and means to support the strike at that meeting?

Mr. KING. Senator, I am just trying to refresh my memory as to when and where and on what occasion this picture was taken. I am assuming that it must have been a convention. It was the Wisconsin pipe trades convention.

At that time we had people come to our conventions from all of the bordering States, and some beyond that. This was taken, or this convention was held in the city of Sheboygan, and the Kohler people very likely came over and asked for the privilege of appearing before the convention.

Senator CURTIS. Does it say there who invited them?

Mr. KING. Well, as secretary of the committee or of the Wisconsin Pipe Trades Association, I assume, and I am not sure about this, I assume that the president and the secretary perhaps collaborated on the invitation. It could be possible. But I don't recall.

Senator CURTIS. Do you know Raymond Majerus?

Mr. KING. I don't recall what format was used in inviting these people.

Senator CURTIS. Do you know Raymond Majerus?

Mr. KING. Yes, sir.

Senator CURTIS. Have you ever talked to him about the Kohler boycott.

Mr. KING. Yes.

Senator CURTIS. Do you know Harvey Kitzman?

Mr. KING. Yes, sir.

Senator CURTIS. Have you discussed the boycott with him?

Mr. KING. Sure, at democratic party meetings.

Senator CURTIS. And Allan Grasskamp?

Mr. KING. I believe I spoke to Allan Grasskamp at the time of this convention, but I don't think that I have seen Mr. Grasskamp since.

Senator CURTIS. What other UAW representatives have you discussed the boycott with?

Mr. KING. I don't believe I know any of the other people, and the only people I ever met in the city of Milwaukee are Ray Majerus. I met him at the fraternal organization that I belong to and he belongs to.

Senator CURTIS. What is your official title in local 75?

Mr. KING. Business manager.

Senator CURTIS. Now, have you or have you not encouraged journeymen plumbers not to install Kohler products?

Mr. KING. What is it?

Senator CURTIS. Have you or have you not encouraged journeymen plumbers not to install Kohler fixtures?

Mr. KING. On occasion, quite to the contrary. On occasion I have urged them to install Kohler fixtures.

Senator CURTIS. Well, have you ever encouraged them not to?

Mr. KING. No, sir.

Senator CURTIS. You did carry it in the bulletin that they had a right to do so individually?

Mr. KING. That is right. They asked me a question and I will answer it that way.

Senator CURTIS. Did you give any publicity to this ruling of the counsel besides in your bulletin?

Mr. KING. Would you repeat that again, please?

Senator CURTIS. Did you give any publicity to the ruling of the counsel when he said as a matter of law they could act individually?

Mr. KING. The ruling of a counsel?

Senator CURTIS. Yes, your lawyer or lawyers had advised you, as I understand it, that it was lawful for a plumber to act in his individual capacity without violating the law.

Mr. KING. I published his statement verbatim in the monthly bulletin.

Senator CURTIS. Now, did you give it any other publicity?

Mr. KING. I haven't any other means of publicizing anything.

Senator CURTIS. Did you make any other statements that got in to the public press concerning it?

Mr. KING. Yes, it might have. If a newspaperman happened to be around or called me and asked me for specific answers, it may have come out.

Senator CURTIS. Here is a letter.

The CHAIRMAN. The Chair presents to you what purports to be a photostatic copy of a letter dated January 29, 1958, and it appears to be from Mr. Brier rather addressed to "Dear Brother," and I don't know what "Dear Brother" it is, and I don't believe it shows on here.

I will ask you to examine this letter and state if you can identify it because apparently your name appears in it.

(A document was handed to the witness.)

Mr. KING. Mr. Chairman, on—

The CHAIRMAN. The question is, do you identify the letter? Have you seen it before, the original of the letter? Do you have any knowledge of it?

Mr. KING. To the best of my recollection, I didn't receive that letter.

Senator CURTIS. Mr. Chairman, as a matter of clarity, I stated I don't know that he can identify it, but I wanted to submit it to the chairman before asking my question.

The CHAIRMAN. The witness says he cannot identify the letter.

Senator CURTIS. I understand that. If I may see the letter, I want to ask him a question about it.

Mr. KING. I don't think that I ever received a letter like that.

Senator CURTIS. Mr. King, I make no statement that you did receive the letter. I wanted you to see it now because there is something in here that I want to ask you about.

This appears to be a letter from Mr. Leo J. Brierather, boycott coordinator from Kohler. It is addressed, "Dear Brother," so it may have gone to one person or many and it was dated January 29, 1958.

There is one paragraph in the letter that I would like to read.

This continued type of labor relations has generated vigorous opposition to scab-made Kohler products. We recognize that many of you have suffered personal hardship by exercising your right as individuals to refuse to install Kohler products. As a result of our consumer boycott, Kohler products are now almost non-existent in Milwaukee County.

The letter closes:

We gratefully acknowledge the courtesy and cooperation of the officers and members of local 75, and brother Tony King, business manager. Hoping we may earn your continued support, with sincere thanks, we wish to remain . . ." and then Mr. Brierather signed it.

I wanted to ask your opinion about this. He says,

We recognize that many of you have suffered personal hardship by exercising your right as individuals to refuse to install Kohler products. Were there members of your union that suffered hardship? I assume that would be to go without work by reason of their refusal to install Kohler products?

Did you observe anything like that?

Mr. KING. No one ever reported that they were suffering any hardship because they refused to install Kohler fixtures and if they did, they elected to do so of their own volition, and the sacrifice, I don't think, would be very great.

Senator CURTIS. Now, he also says:

As a result of our consumer boycott, Kohler products are now almost non-existent in Milwaukee County.

Do you agree with that statement made as of January 29, 1958?

Mr. KING. I wouldn't know to what extent Kohler fixtures are being used in Milwaukee. I couldn't express an opinion on it.

Senator CURTIS. Do you know to what he might be referring when he expresses gratitude for the courtesy and cooperation of local 75 and of you particularly?

Mr. KING. Do I know what he means by that?

Senator CURTIS. Yes, what transpired that would cause them to express their gratitude?

Mr. KING. I wouldn't have a very good opinion of that, Senator.

Senator CURTIS. There was nothing done that would cause them to be grateful?

Mr. KING. I wouldn't say nothing, but I certainly would be presumptuous if I undertook to define what is meant by that statement.

Senator CURTIS. I will put it this way: What did you do as business manager, and what did local 75 do that should cause them to be grateful?

Mr. KING. It might be construed to mean this: That because I have told some of my friends not to purchase Kohler fixtures, that in that way I was helping the strikers and they appreciated that assistance.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. As I understand, the only difference between the telephone conversation you had with Mr. Sharp, his version of it and yours, he says that you used the word "trouble," and that he would have "trouble" if he undertook to install Kohler fixtures.

You say you told him he would have "difficulty"?

MR. KING. Well, to me, Mr. Chairman, to me "difficulty" is always "trouble."

THE CHAIRMAN. That is the point I was trying to make.

MR. KING. The two words, I think, are synonymous, and they mean about the same. When you have difficulty, you have trouble.

THE CHAIRMAN. What I was trying to point out was actually the conversation was a long time ago, and a telephone conversation, and there is no conflict between your testimony with respect to that telephone conversation, as I understand it.

MR. KING. I think that I made it clear that what I told Sharp was that we anticipated difficulty or trouble, if you want to call it trouble.

THE CHAIRMAN. That is what I say. So far as the import of the two witnesses' testimony, yours and Mr. Sharp, there is no conflict between your testimony with respect to that telephone conversation, except one used the word "difficulty," and the other called it "trouble."

MR. KING. That is right.

THE CHAIRMAN. Now, as business agent, do you assign the plumbers to jobs?

MR. KING. There are several of us that do. We have five girls in the office, and they all assign plumbers.

THE CHAIRMAN. I mean they are under your supervision, are they, and your direction?

MR. KING. Yes, but if a call comes in for a plumber, the girl that answers the phone in my absence, she calls the plumbers and asks them, "Do you want to go to work for Jones?"

THE CHAIRMAN. I understand that, but they are not officials in the union, and they are under your supervision and direction?

MR. KING. Yes, sir.

THE CHAIRMAN. They carry out your orders, the girls in the office?

MR. KING. That is right, and the order is that they must place the men when the calls come in as expeditiously as it is humanly possible to do so.

THE CHAIRMAN. All right, now let us talk about as equitable as humanly possible to do so. Do you have the power and the authority to withhold the assignment of any man to a job simply because he may install Kohler fixtures?

MR. KING. No, sir.

THE CHAIRMAN. There has been an implication here at least in the testimony, if not a direct charge, about which I want to ask you specifically as business agent. If a man goes out and installs Kohler fixtures as a plumber, and works for a contractor that is installing Kohler fixtures, on the next job that comes up you can punish him if you want to or impose reprisals against him by not letting him work and giving that job to someone else?

MR. KING. I have no such authority, Mr. Chairman.

THE CHAIRMAN. What authority do you have to assign men to work? If you can tell this man, "You may have this job over here," why can't you tell the next man he can't have it? What is the difference?

MR. KING. If you were a plumber and you came to my office and I told you "Jones wants a plumber," and you told me "I don't want to work for Jones, I want to work for Smith," that would be it.

The CHAIRMAN. It could be it.

Mr. KING. And if I did——

The CHAIRMAN. But if that man comes and he says, "I want to work for Jones," can you say to him "I will not assign you there because last week you worked for Smith installing Kohler fixtures"?

Mr. KING. I challenge anyone to prove that I have ever done anything like that.

The CHAIRMAN. I didn't ask you whether you did it or not. I asked you, can you do it?

Mr. KING. I cannot.

The CHAIRMAN. You don't have that authority?

Mr. KING. No, sir.

The CHAIRMAN. Well, I am under the impression that business agents in many unions do have such authority, and that they exercise it. I have letters by the hundreds from union people telling me that that is the fact.

Mr. KING. That may be, Senator, but I wouldn't want that power.

The CHAIRMAN. I don't know about you individually, but I do understand how it operates according to the letters and testimony from members of unions who say they are denied work and they can't be assigned to a job unless they get along with the business agent.

Do you deny that is a fact?

Mr. KING. Yes, sir; in my case.

The CHAIRMAN. In your case?

Mr. KING. In my case, and I don't know what other unions are doing, and they run their own organization.

The CHAIRMAN. Are there any further questions?

Senator CURTIS. Just briefly, do you refer nonunion plumbers to work?

Mr. KING. No, sir. We never have any nonunion plumbers come near us.

Senator CURTIS. Do contractors in your area ever hire plumbers without calling you?

Mr. KING. Yes. In the last 5 years they have probably employed 100 nonunion plumbers who later were taken into our organization.

Senator CURTIS. My question was, do they ever hire plumbers without calling you first?

Mr. KING. Yes. They are privileged to do that any time they wish.

Mr. DUNN. Mr. Chairman, rather than read these affidavits into the record, we have some nine affidavits which support the testimony Mr. King has given here this morning.

The CHAIRMAN. You will submit the affidavits for the committee's determination, and they will not be placed in the record or made exhibits at this time.

Mr. DUNN. I would like further, other than these 9 exhibits, or 9 affidavits, to produce the work card for the men who were supplied for the St. Luke's Hospital, about which there was quite some testimony yesterday.

The CHAIRMAN. You cannot produce it and you are not a witness. The witness, if he has a work card he wants to present, may submit it to the committee.

Mr. DUNN. I thought I would expedite the work of the committee by doing this myself, Mr. Chairman.

The CHAIRMAN. You understand I have problems here, and we are trying to stay somewhat on the track.

Mr. DUNN. I think it can be carried too far, though, Mr. Chairman.

Mr. KING. These are the original work cards for the Knab Co., which we discussed here this morning, and it will prove that compared to other contractors the size of the Knab shop, that the Knab Company obtained more plumbers during that period of time than any other contractor including much larger ones.

I was criticized by other contractors because I was channeling more plumbers into the Knab shop. But these are the original records, and unless I can get them back——

The CHAIRMAN. If you wish to submit copies, prepare copies and submit them to us.

Mr. KING. Can I do that?

The CHAIRMAN. You may do that.

Mr. KING. Thank you.

Mr. DUNN. Mr. Chairman, there is one thing I do want to say. Mr. King doesn't know anything about it. There are two statements which rebuts the hearsay testimony of both Mr. Chase and Mr. Sharp yesterday.

The CHAIRMAN. Just a moment. You have some telegrams, and I have some telegrams and we are not placing telegrams in the record if I can prevent it.

Mr. DUNN. We would like to be permitted to submit statements under oath taken before notary public Mr. Papps, and Mr. Rohms about which there was hearsay testimony yesterday.

The CHAIRMAN. You may have them submit their affidavits to the committee along with these others for our determination and disposition.

Mr. SHARP. Thank you for the courtesy; I appreciate it very much.

The CHAIRMAN. Thank you. The committee will stand in recess until 2 o'clock.

(Whereupon, at 12:15 p. m., the committee recessed, to reconvene at 2 p. m., Tuesday, March 25, 1958.)

AFTERNOON SESSION

(At the reconvening of the session, the following members are present: Senators McClellan and Goldwater.)

The CHAIRMAN. The committee will be in order.

Call your next witness.

Mr. KENNEDY. Mr. Chairman, a member of the committee has requested that Mr. Donald Rand be recalled.

The CHAIRMAN. Mr. Rand, come forward.

TESTIMONY OF DONALD RAND, ACCOMPANIED BY JOSEPH L. RAUH, JR., COUNSEL—Resumed

The CHAIRMAN. Mr. Rand, you have been previously sworn. You will remain under the same oath. You have the same counsel appearing before you as appeared for you when you testified previously.

All right, Senator Goldwater, have you some questions?

Senator GOLDWATER. I have no questions. I understand Senator Curtis has some questions. He is on his way.

The CHAIRMAN. We will be at ease for a few minutes. I thought we were ready.

(Brief recess.)

Senator Goldwater wishes to inquire.

Senator GOLDWATER. Mr. Rand, are you on the payroll of the International UAW?

Mr. RAND. Yes. I testified to that effect previously, Senator.

Senator GOLDWATER. Did you testify as to the salary that you receive?

Mr. RAND. No, I didn't, Senator.

Senator GOLDWATER. Would you care to tell us what you are paid a month?

Mr. RAND. A month?

Senator GOLDWATER. Yes. Or a year.

Mr. RAND. I make \$11,000 a year.

Senator GOLDWATER. Do you make any contributions or donations to the union directly or indirectly in connection with any of your activities?

Mr. RAND. Are you referring to the flower fund?

Senator GOLDWATER. Yes. I will get around to that.

Mr. RAND. Yes, Senator, I do make a contribution.

Senator GOLDWATER. Are they made regularly?

Mr. RAND. I make them regularly, yes.

Senator GOLDWATER. By what? Monthly?

Mr. RAND. Weekly, biweekly, depending upon the individual.

Senator GOLDWATER. Do you make out your own check for these?

Mr. RAND. No, I don't make a check out, sir.

Senator GOLDWATER. Do you give it in cash?

Mr. RAND. I never have given a check. I have always made a contribution in the form of cash.

Senator GOLDWATER. From your own funds?

Mr. RAND. From my own money, yes.

Senator GOLDWATER. Who do you make that to?

Mr. RAND. At the present time?

Senator GOLDWATER. Yes.

Mr. RAND. Well, in our department we have an arrangement whereby Jess Ferrazza is the custodian of the money. At least that is where I turn it over.

Senator GOLDWATER. What is his title?

Mr. RAND. He is also the administrative assistant to Emil Mazey. He holds the same position, Senator, as I do in Mr. Mazey's office.

Senator GOLDWATER. Would you care to tell us how much these funds are that you donate occasionally?

Mr. RAND. That I contribute?

Senator GOLDWATER. Yes.

For instance, what was your last donation?

Mr. RAND. \$10, I think.

Senator GOLDWATER. What would they total in a year?

Mr. RAND. It depends. I am not sure of the exact total, Senator. I can obtain that, if you like.

(At this point, Senator Curtis entered the hearing room.)

Senator GOLDWATER. Do you know how large that flower fund is in your particular unit?

Mr. RAND. No, I don't, Senator.

Senator GOLDWATER. How do you use that flower fund?

Mr. RAND. The flower fund is used for a number of purposes. The very fact that it is called a flower fund, to buy and purchase flowers for various people, staff members, their families, their children, their friends, office personnel and so forth, and in addition to that the fund, as Mr. Mazey has already testified, is used for the purpose of handling the problems that we have. We, of course, have a political union just like many other organizations, and the money is used to print our literature and all of the other phases of becoming elected in an organization such as ours.

Senator GOLDWATER. When it comes election time, how do you go about getting money from that fund?

Mr. RAND. The people who are responsible for that disburse it, I believe.

Senator GOLDWATER. Mr. Ferrazza?

Mr. RAND. Not necessarily Mr. Ferrazza. I am not positive of the exact arrangement on that, Senator. I have no knowledge of it.

Senator GOLDWATER. Anyone who contributes to this flower fund, then, has a right to expect assistance from it at election time?

Mr. RAND. I believe so. I would imagine so.

Senator GOLDWATER. How many people in your international contribute to this particular fund?

Mr. RAND. How many?

Senator GOLDWATER. Yes.

Mr. RAND. I wouldn't know, Senator. I couldn't hardly tell you.

Senator GOLDWATER. Well, would it be more than 10?

Mr. RAND. I would say that, Senator, most of them do. Whether they all do or half of them do—it is my personal opinion that most of them do.

Senator GOLDWATER. When you say "they," do you mean just the officers?

Mr. RAND. Officers and staff members.

Senator GOLDWATER. What would that total be, roughly, 10, 25?

Mr. RAND. I don't know the exact number of staff people that we have. We can obtain that information. I think Senator Curtis has already suggested that we furnish the committee with the number of staff people and so forth. I think that was a request this morning. Was it not, Senator?

Senator GOLDWATER. Is this donation to the flower fund required of you as an officer?

Mr. RAND. No, sir.

Senator GOLDWATER. It is purely voluntary?

Mr. RAND. Absolutely.

Senator GOLDWATER. Do you know if Mr. Ferrazza keeps an audit of this fund?

Mr. RAND. I do not know that, sir.

Senator GOLDWATER. I think Mr. Mazey testified that you have some 1,200 locals in the UAW.

Mr. RAND. I think he mentioned 1,253 UAW locals.

Senator GOLDWATER. Would we expect to find a flower fund in each of the locals?

Mr. RAND. I don't believe so, Senator. I have no knowledge whether they do or they don't.

Senator GOLDWATER. How many flower funds do you have in headquarters?

Mr. RAND. I couldn't tell you that, Senator. I am sure that we can get the information if you so desire.

Senator GOLDWATER. That is all I have, Mr. Chairman.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. Mr. Rand, do you make any payments back to the UAW or the flower fund, or any fund in connection with it?

Mr. RAND. I have already testified, Senator. If I understand your question, do I make a contribution to the flower fund—is that the question?

Senator CURTIS. Yes.

Mr. RAND. I have already said that.

Senator CURTIS. You did?

Mr. RAND. Yes, just now.

Senator CURTIS. Do you do it regularly?

Mr. RAND. Yes, I do, as an individual, yes.

Senator CURTIS. Every pay day?

Mr. RAND. Not necessarily a pay day. Whenever I think about it and get around to it.

Senator CURTIS. How often do you do it?

Mr. RAND. I do it as I have already stated, Senator, on a bi-weekly basis, a weekly basis. I have been here in Washington almost 5 or 6 weeks, so I haven't made any attempt to do that.

Senator CURTIS. The regularity with which you do it has been interrupted by your presence here in Washington?

Mr. RAND. No, that isn't exactly true, Senator. As I understand your question, no, the fact that I am here doesn't do that. I, as an individual, want to make that contribution, and I will make that contribution to our flower fund.

Senator CURTIS. Do you make it in cash or by check?

Mr. RAND. Was the Senator here?

I have already just answered all of these questions, I think, yes, I make it in cash.

Senator CURTIS. Well, I will go on with what I have in mind.

Were you asked for an estimate of how much these contributions would amount to in a year?

Mr. RAND. No. As an individual?

Senator CURTIS. Yes.

Mr. RAND. I have already testified that I probably make a contribution on the average of 5 to 10 dollars a week, depending upon the circumstances. I think in my case I have been trying to contribute \$10.

Senator CURTIS. \$10 a week?

Mr. RAND. Yes.

Senator CURTIS. That would be about \$500 a year?

Mr. RAND. Yes.

Senator CURTIS. Why do they call it the flower fund?

Mr. RAND. I think somebody just probably created that name, Senator. I have no idea whatsoever. I think it goes for a very worthy cause. It is used to help people and assist people whenever they have any problems.

Just what the actual accounting of it, I don't have it, but I am sure that that information is available. We will be more than happy to present it to you, Senator.

Senator CURTIS. Would you say that your contributions to the flower fund were about the same as the other representatives and employees of the UAW?

Mr. RAND. No. As a matter of fact, Senator, when I was on the skilled trades staff and then on the regional staff, I made a contribution, I think, of \$3 or \$5, or something.

But it just so happens that I now, on my own accord, make the \$10. I imagine there are other people in that some category who determine that as individuals.

Senator CURTIS. You are drawing more now than before in your pay?

Mr. RAND. Yes. I have a different position than I had previously, yes, sir.

Senator CURTIS. Mr. Rand, you will recall that when you were on the stand previously, there was time spent on an attempt to get you to answer a question as to whether or not you were on the picket line and participated in picketing procedure urging people not to buy Kohler products.

You testified on page 2237 that you did not participate in that activity.

Is that still your answer?

Mr. RAND. I could ask you to read that again, because I didn't follow you completely, but let me try to answer you any way without going through that. It was my opinion, in answering that question—I think the word illegal was used and as far as I am concerned there was no illegal methods as far as these picket lines was concerned.

I think I testified to the effect that I was on 1 or 2 of these. Now, if that is what you are referring to, that is my answer to the question.

Senator CURTIS. Were you engaged in picketing on or about May 31, 1955, in West Allis, Wis., adjacent to Milwaukee?

Mr. RAND. Yes, Senator, on the basis of the testimony that has been given here, I recall that event. I wasn't here but I read parts of the transcript.

Senator CURTIS. You were in a group of 833 pickets?

Mr. RAND. Yes, sir.

Senator CURTIS. You were picketing at a plumbing establishment when a Kohler truck was making deliveries?

Mr. RAND. Yes, sir.

Senator CURTIS. Do you know Frederick Byrum?

Mr. RAND. I think his name is Fritz Byrum. It may be Frederick, I don't know. I know a Fritz Byrum.

Senator CURTIS. Who is he?

Mr. RAND. I think he is a Kohler striker. I know he is a Kohler striker.

Senator CURTIS. Do you know Ethan Berg?

Mr. RAND. Ethan Berg is also a Kohler striker; yes, sir.

Senator CURTIS. Do you know Frank Schulze?

Mr. RAND. I don't know the name offhand. I probably know the individual.

Senator CURTIS. Do you know Gottlieb Schmidt?

Mr. RAND. I might say there are a lot of Gottlieb Schmidts in Kohler. It is a little difficult to know which one you are talking about.

Senator CURTIS. Do you know a Kohler striker by the name of Gottlieb Schmidt?

Mr. RAND. I believe I know the person; yes.

Senator CURTIS. Do you know Frederick Matthias?

Mr. RAND. I can't testify, Senator, that I know them with the name and person as such. But there is no question that I probably know those people.

Senator CURTIS. Were these people or any of them with you on that picketing occasion at West Allis?

Mr. RAND. Yes, Senator.

Senator CURTIS. That is about 60 miles from Kohler, Wis., isn't it?

Mr. RAND. A little more than that. Maybe 70 miles.

Senator CURTIS. On that occasion did the pickets carry signs reading "Don't buy Kohler ware. Made by scabs. Kohler ware is made by strike breakers"?

Mr. RAND. I don't remember the exact language on the sign, Senator, but they did have some signs referring to the fact that Kohler products were made by scabs and strikebreakers, et cetera.

Senator CURTIS. Did you get over to the Neis establishment?

Mr. RAND. I believe so, yes.

Senator CURTIS. Do you recall that on that occasion you saw Mr. G. A. Desmond?

Mr. RAND. I believe Mr. Desmond was there, yes.

I might say I refreshed by memory from his testimony here and I recall some of that, some of the events that took place there.

Senator CURTIS. Mr. Jacobi and Mr. O'Neil were there, too?

Mr. RAND. Jacobi. That is the famous cameraman of the Kohler Co.

Senator CURTIS. Was he there?

Mr. RAND. Yes.

Senator CURTIS. Mr. Rand, you spoke to a Mr. Neis, one of the officials in the plumbing company at that time, didn't you?

Mr. RAND. I believe I talked to a person there. I don't know who it was.

Senator CURTIS. But a person that you thought was part of the management of the company?

Mr. RAND. Well, I knew he was somebody who was connected with that company. Whether I imagined at that time he had an official capacity or otherwise, I am not in any position to testify to.

Senator CURTIS. You spoke to him?

Mr. RAND. Yes, I talked to a person there.

Senator CURTIS. The Kohler Co. truck was unloading in the rear of the building, was it not?

Mr. RAND. It was in the rear of the building. Whether it was unloading—I believe that during that period they did unload the truck. Whether you are saying that I was talking to this man while it was unloading or not, I am not going to quarrel with that.

Senator CURTIS. The pickets were doing their picketing near the truck, weren't they?

Mr. RAND. Yes. I think they were there. The question of whether they were picketing or not is one that can be questioned. They were there, Senator. I don't know whether, frankly, we were there to determine where the Kohler products were going. We wanted to know, we were in hopes that we could discuss the matter with the people who were interested in the Kohler products and tell them the Kohler story.

Senator CURTIS. You did carry signs?

Mr. RAND. I think they had signs, yes. But I don't think they were carrying the signs as such in an established picket line.

Senator CURTIS. You told them to stop buying Kohler isn't that correct?

Mr. RAND. I beg your pardon.

Senator CURTIS. Didn't you tell this representative of the Neis Company to stop buying Kohler?

Mr. RAND. I did tell him I hoped he would consider the problems of the Kohler strikers; I am sure that if he understood the problems, the fact that the Kohler Co. had been found guilty of unfair labor practices, and that they were presently not bargaining in good faith, that they certainly would see the Kohler workers' side of the story, and, as a result, they wouldn't handle the Kohler products, purchase the Kohler products.

Senator CURTIS. What did he say to you?

Mr. RAND. I don't remember his conversation, though I have read what Mr. Desmond said.

Senator CURTIS. Do you think that might be correct?

Mr. RAND. What was it he said, Senator?

Senator CURTIS. Words to the effect that he said if that was all you wanted, he said you could leave the premises.

Mr. RAND. He said "Thank you. If that is all that you have"—he said goodbye or words to that effect.

Senator CURTIS. What did you do then?

Mr. RAND. I left, Senator.

Senator CURTIS. Did you take any pickets with you when you left?

Mr. RAND. Well, as I remember the location there, Senator, no, I didn't take any pickets with me as I left. I have read the testimony of Mr. Desmond, and I don't agree with it.

As I remember, some of those fellows went with me out to the front of the establishment.

Senator CURTIS. You did go to the front of the Neis Co.

Mr. RAND. Yes, we did, and why Mr. Jacobi and Mr. Desmond deliberately stood there and insisted on taking our pictures and tried to create and provoke an incident. I am darn glad they didn't accomplish it.

Senator CURTIS. Did you block Paul Jacobi?

Mr. RAND. No, I didn't, Senator. You have to understand, Senator, that this fellow Jacobi is a professional photographer for the Kohler Co.

He has taken hundreds of affidavits. He has attempted to provoke as many incidents as he can. He was the same individual who attempted to provoke me into an incident out at that home demonstration. He deliberately tried to do it there. Thank God that I didn't fall for his hoax.

Senator CURTIS. Did you threaten or say anything to Mr. Desmond?

Mr. RAND. I beg your pardon?

Senator CURTIS. Did you say anything to Mr. Desmond?

Mr. RAND. I don't remember any discussion that I had with Mr. Desmond that day.

Senator CURTIS. Did you say anything either that was threatening in the words or in the manner in which you spoke?

Mr. RAND. As I say, I don't remember that. What date was that? That is quite a while ago, isn't it?

Senator CURTIS. That day of the picketing in front of the Neis Co.

Mr. RAND. It is a number of years ago, and I just don't remember the conversation whatsoever, Senator.

Senator CURTIS. Were you walking with the pickets in the picket line that day?

Mr. RAND. I was there. I was not walking with the pickets, no, sir.

Senator CURTIS. What were you doing?

Mr. RAND. As I have already testified, Senator, I went there in the hopes that we could talk to the people who were purchasing Kohler products, and, by that, be able to convince them that there was a great deal of merit to the Kohler workers' problems.

Senator CURTIS. Did you tell the pickets to continue their picketing after the Kohler truck left?

Mr. RAND. No, I didn't tell them to continue that.

Senator CURTIS. They did though, did they not?

Mr. RAND. I think they were there. I read this testimony also, Senator, and I think Mr. Desmond attempts to establish the fact that we continued the picketing. As I remember, Mr. Desmond and this fellow Jacobi, and I think they had another man with them—I am not positive of that fact—they slowly went around the block.

I don't know what they were doing—trying to get more evidence to try to provoke us into certain acts. They weren't successful.

Senator CURTIS. Did the pickets, regardless of what they were doing, at the truck entrance of the Neis Co., did they stay there about an hour?

Would you say that was correct?

Mr. RAND. I don't know how long they stayed, Senator. I know they were there for a short time after this particular incident.

Senator CURTIS. Do you know anything about picketing at the F. R. Dingel Co. in Milwaukee?

Mr. RAND. I know of it now; yes, Senator. Whether I am involved in it or not or anybody else, I couldn't tell you one iota of information regarding that, other than what I have heard at this hearing. I just don't remember that.

Senator CURTIS. Do you know that Ray Majerus was there?

Mr. RAND. No. And as a matter of fact I read the testimony and I don't know whether it says that in there, whether Desmond or anyone else claims he was there. I haven't any information about that.

Senator CURTIS. Do you have any information about the account that Ray Majerus assaulted Ely O'Neill and was physically restrained by a Milwaukee policeman?

Mr. RAND. Assaulted? Assaulted? No, I never knew that.

Senator CURTIS. Did anything happen that you learned of whereby a policeman restrained Majerus?

Mr. RAND. Is this the Dingle incident you are talking about?

Senator CURTIS. Yes.

Mr. RAND. No; I know nothing about that. I have no information.

Senator CURTIS. Did you have anything to do with following the trucks?

Mr. RAND. No; not directly, Senator. I knew of it.

Senator CURTIS. What did you have to do indirectly?

Mr. RAND. As I pointed out to you, I don't know whether you gave me the chance to say, that I was in charge of the strike. I went in there in 1956, I think it was, and at the time we had 1,550 people still on the assistance rolls, and I had many problems, among them was the boycott.

I wouldn't want to leave the impression here with you, Senator, that being in charge of a strike for the UAW with this kind of a situation was an easy job. There are many problems dealing with the individual strikers, of which we could take days and days to relate here, as a result of this strike who had many hardships, and among the problems that I had was the conduct of the boycott and the various phases, and it was a very small part of the overall direction that I gave to local 833.

My main function there was that I was in direct charge of the strike, and the related problems to the strike, and there were many.

Senator CURTIS. Who was chairman of the committee on following the trucks?

Mr. RAND. Well, Senator, there was no chairman as such. I think that Curtis Nack, it has been testified here, was in charge of it, and this wasn't any professional program as such. It was a very simple one.

Senator CURTIS. Breirather had something to do with it, didn't he?

Mr. RAND. Leo Breirather had this to do with it: He was what we called or we created the name coordinator of the boycott program, in an attempt to establish a boycott of the Kohler products in the hopes we could get this company to negotiate a collective bargaining agreement.

As a result of this we had to develop a program. Leo Breirather was directed by the executive board of the local 833 to coordinate the program as such. Nobody knew anything about a boycott, and as a result of that one of the functions that he probably worked with the committee in having some work and assignment with this so-called follow-the-truck committee. But it wasn't anything of a serious nature.

It has already been testified to, I think, that they made a couple of trips.

Senator CURTIS. Were there meetings held regarding the following of the trucks?

Mr. RAND. I don't believe, Senator, that there was any formal meeting as such. There may have been. We have a lot of good people up there who have been working with us, and I am quite proud of the fact that they have devoted a great deal of time and effort to this, and when they have a problem they get together in an informal fashion and work out the problems relating to the strike, and they have tried to assist one another.

Senator CURTIS. Now, did they get together informally and discuss follow-the-truck procedures, or did they discuss follow-the-truck procedures when they gathered for some other purpose?

Mr. RAND. Frankly, Senator, I haven't any information of when it started, or how it started and all. I am just saying from my knowledge of the situation I am sure that the executive board took action regarding this, the executive board of local 833, and they formulated this volunteer follow-the-truck movement.

Senator CURTIS. Were any injunctions given to the strikers who were following the trucks?

Mr. RAND. I have no knowledge of any formula of injunctions or any such things as that. I imagine that they did, Senator, have some understanding of what the program was, but I can't testify to what that is.

Senator CURTIS. Did you give any information to truckdrivers in regard to that?

Mr. RAND. Did I?

Senator CURTIS. Yes.

Mr. RAND. No. Did I give them?

Senator CURTIS. To the people who were following the truckdrivers?

Mr. RAND. I may have, and I doubt it. I don't remember. I may have, Senator.

Senator CURTIS. What would you have told them, if you did?

Mr. RAND. What would I have told them if I did? I don't remember if I did, Senator, and I don't know what I might have told them. I probably would have requested that they try to bring back some information relative to the Kohler distributors.

That was the object as I understood it, to find where these materials were going, so we would have some knowledge to try to develop some sort of a boycott program as such.

Senator CURTIS. How many pickets were involved in following the trucks?

Mr. RAND. I didn't know. I think Roy Johnsen, one of the Kohler strikers, testified to the effect there were 15 or 16, I think he said. Whether that is right or wrong, I don't know offhand, Senator. It wasn't that—

Senator CURTIS. Were you Breirather's superior in regard to running things there?

Mr. RAND. Senator, in our kind of a union, nobody is superior. I was the individual who was assigned by the international to conduct the affairs of the strike as a representative of the international union, and my function was to work as closely as possible with the executive board of UAW Local 833, of which Leo Breirather was a member.

If anything, the UAW executive board was superior to myself as such.

Senator CURTIS. Was there anyone else who stayed there the greater share of the time from the international union that was your superior?

Mr. RAND. I believe that I testified previously, Senator, that when Burkhart was there he was superior in the sense that he had a similar position to what I have at the present time in that strike, and he personally was in charge generally accepted as being the superior person in that particular locality.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Are there any other questions?

All right, you may stand aside.

Call the next witness.

Mr. KENNEDY. Could we have Mr. Deis?

The CHAIRMAN. Mr. Deis, will you come around?

Will you be sworn?

You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. DEIS. Yes, sir

TESTIMONY OF JOHN DEIS

The CHAIRMAN. State your name, and your place of residence and your business or occupation.

Mr. DEIS. John Deis.

The CHAIRMAN. John what?

Mr. DEIS. John Deis, D-e-i-s.

The CHAIRMAN. Where do you live, Mr. Deis?

Mr. DEIS. Sheboygan, Wis.

The CHAIRMAN. What is your business or occupation?

Mr. DEIS. Common labor.

The CHAIRMAN. Do you have an attorney to represent you?

Mr. KENNEDY. Do you have a lawyer?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Is he here?

Mr. DEIS. Oh, no; I don't need a lawyer.

The CHAIRMAN. You don't need a lawyer?

Mr. DEIS. No.

The CHAIRMAN. Thank you very much.

Mr. Counsel, proceed.

Mr. KENNEDY. Mr. Deis, you used to work at the Kohler Co.?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. And for what period of time did you work at the Kohler Co.?

Mr. DEIS. Well, I worked, you know, in 1933 and then I had a layoff.

Mr. KENNEDY. How long before 1933 did you work?

Mr. DEIS. They had me working there not long, maybe 4 or 5 months you know, and then we got a layoff, and you know I got a notice, and I got an order, "Don't come back."

Mr. KENNEDY. Were you one of the strikers in 1933?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Then did you go back to work after the strikers finished?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. When did you go back to work?

Mr. DEIS. Well, they called me back in 1941, on June 11.

Mr. KENNEDY. You went back to work for the Kohler Co. then?

Mr. DEIS. What is that?

Mr. KENNEDY. You went back?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. What work were you doing then?

Mr. DEIS. I worked in the foundry.

Mr. KENNEDY. How long did you work then?

Mr. DEIS. 13 years.

Mr. KENNEDY. And when did you leave your job?

Mr. DEIS. I left the job in 1954.

Mr. KENNEDY. In 1954?

Mr. DEIS. In 1954.

Mr. KENNEDY. You went out on strike?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. And you still are out on strike?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Are you receiving strike benefits from the union?

Mr. DEIS. No, not I. I had some, but not now.

Mr. KENNEDY. Not now?

Mr. DEIS. No, I withdrew my security.

Mr. KENNEDY. You have a job of your own?

Mr. DEIS. Yes.

Mr. KENNEDY. Now, Mr. Deis, during the 1934 strike there was a riot on the evening of July 27, 1934.

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Were you present during the riot?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Were you out on strike at that time?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Were you present when the stones and rocks were thrown at the window?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Windows of the plant?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. And then there was tear gas shot at the strikers?

Mr. DEIS. That is right.

Mr. KENNEDY. And did you see the tear gas shot?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. You were one of those who saw the tear gas?

Mr. DEIS. How is that?

Mr. KENNEDY. You saw the tear gas?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Did you see anybody, any people with guns at that time?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Did you see any people representing the company shoot at anyone?

Mr. DEIS. You say the company?

Mr. KENNEDY. Any representatives of the company, did you see any of them shooting at anyone?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. You did?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. You saw that on the night of the strike?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. Now, you filed an affidavit with the committee.

The CHAIRMAN. The Chair presents to you a document purporting to be an affidavit signed by you on the 12th day of March 1958.

Mr. DEIS. Yes, sir.

The CHAIRMAN. That is this year?

Mr. DEIS. Yes, sir.

The CHAIRMAN. I ask you to examine this and state if you identify it and if it is an affidavit which you signed?

(A document was handed to the witness.)

Mr. DEIS. Yes, sir; I signed this.

The CHAIRMAN. You signed it?

Mr. DEIS. Yes, sir.

The CHAIRMAN. That affidavit may be made exhibit 123, I believe. If that is not correct let the record be corrected accordingly. I have checked it and it is 126.

(Document referred to was marked "Exhibit No. 126" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Where were you when you signed that affidavit?

Mr. DEIS. I went down to the office, Dave Rabinowitz's office, and we signed these papers.

(At this point, the following members were present: Senators McClellan, Mundt, Curtis, and Goldwater.)

The CHAIRMAN. Who prepared the paper?

Mr. DEIS. I forgot the name and, you know, the lawyer's name.

The CHAIRMAN. Another lawyer prepared the paper?

Mr. DEIS. Yes.

The CHAIRMAN. And you have forgotten his name?

Mr. DEIS. I forgot his name.

The CHAIRMAN. Is he associated with Mr. Rabinowitz?

Mr. DEIS. Well, I don't know. I cannot tell.

The CHAIRMAN. How come you to go down to the office to sign it?

Mr. DEIS. He called me down.

The CHAIRMAN. Who called you?

Mr. DEIS. The lawyer.

The CHAIRMAN. Which one?

Mr. DEIS. The lawyer that was down by the office.

The CHAIRMAN. The one you don't know.

Mr. DEIS. What?

The CHAIRMAN. The lawyer that you don't know called you down there?

Mr. DEIS. Yes, he called me down.

The CHAIRMAN. Well, what did he tell you when you got down there?

Mr. DEIS. Well, you know, he asked me what is happening on the picket line and everything, and I told him all about it, and he made this copy out here.

The CHAIRMAN. You told him all about it and he made this copy out?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Did he tell you he wanted an affidavit?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Did he tell you why he wanted it?

Mr. DEIS. Yes, sir.

The CHAIRMAN. What did he say he wanted it for?

Mr. DEIS. Well, you know, I was in the strike, you know, and I got shot and everything, and that is why they wanted the affidavit, you know, and to bring it before the Senate committee.

The CHAIRMAN. He wanted to bring it before the Senate committee?

Mr. DEIS. Yes, sir.

The CHAIRMAN. He told you he wanted an affidavit about what you knew regarding the strike and who you saw get shot and so forth, so he could bring it before the Senate committee?

Mr. DEIS. Yes. I told him about what I saw and everything.

The CHAIRMAN. But you knew the purpose of the affidavit was to be presented to this committee before you made it, is that correct?

Mr. DEIS. I can't—yes. Yes.

Mr. KENNEDY. Don't say yes——

Mr. DEIS. Oh, no.

The CHAIRMAN. Wait a minute. Let's start over.

Mr. DEIS. I want to hear this one right. Then I can answer you.

The CHAIRMAN. I want you to hear it right. At the time you were called down to the lawyer's office——

Mr. DEIS. Yes?

The CHAIRMAN. And before you made this affidavit, but before you signed it, were you told or did you know and understand, that it was being prepared for your signature and then to be submitted to this Senate committee?

Mr. DEIS. I cannot comprehend this question.

The CHAIRMAN. You can't understand my question?

Mr. DEIS. No, not this kind of question.

The CHAIRMAN. Not that kind of question. Well, let's shorten it a little. Did you know before it was to be prepared that you were to sign it?

Mr. DEIS. I can't answer this one.

The CHAIRMAN. You don't know whether you were going to sign it or not when it was being prepared?

Mr. DEIS. Yes, I know it as I sign it.

The CHAIRMAN. You knew you were going to sign it?

Mr. DEIS. Yes.

The CHAIRMAN. Did they tell you what was to be done with this after you signed it?

Mr. DEIS. Oh, yes.

The CHAIRMAN. What did they tell you?

Mr. DEIS. What?

The CHAIRMAN. What did they tell you?

Mr. DEIS. Well, you know they asked me, the lawyer, was I know, and I told him everything.

The CHAIRMAN. I know. He asked you and you told him everything. What did he say he would do with everything after he got it in the affidavit?

Mr. DEIS. Well, I told him everything, and he said he would have to send it down to the Senate committee, you know.

The CHAIRMAN. He told you he would have to send it down to the Senate committee?

Mr. DEIS. Yes, sir.

The CHAIRMAN. He told you that before you signed it?

Mr. DEIS. No, I signed it and I asked him, "Where you want to send it?", and he said, "It is going to the Senate committee."

The CHAIRMAN. He told you after you signed it that he was going to send it to the Senate committee; is that correct?

Mr. DEIS. No; I signed it and then he told me.

The CHAIRMAN. Which was first?

Mr. DEIS. What?

The CHAIRMAN. You signed it?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Was it before you signed it or after you signed it that you were told that it was coming down to the Senate committee?

Mr. DEIS. Yes, sir. No, I signed it and then I told him it is coming down to the Senate committee.

The CHAIRMAN. You signed it and then you were told that it was coming down to the Senate committee?

Mr. DEIS. That is right.

The CHAIRMAN. So it was after you signed it that you learned that it was to come before the Senate committee. Did you read it before you signed it?

Mr. DEIS. Yes, me look it over.

The CHAIRMAN. I beg your pardon?

Mr. DEIS. Me look it over. Me read it.

The CHAIRMAN. You looked it over?

Mr. DEIS. Yes. Me read it.

The CHAIRMAN. Did you read it?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Do you know what was in it?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Do you know who you said you saw got shot?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Who?

Mr. DEIS. I get shot, do you mean?

The CHAIRMAN. Who do you say in the affidavit got shot?

Mr. DEIS. Shot? You know, well, you know, I get shot.

The CHAIRMAN. You got shot. You are No. 1. Who else? Who else did you say in the affidavit got shot?

Mr. DEIS. Well, I don't know who all got shot. I know I get shot.

The CHAIRMAN. You know you got shot?

Mr. DEIS. Yes.

The CHAIRMAN. You felt it? You felt it? You know you got shot?

Mr. DEIS. You know, I cannot look around here, I cannot look around on the picket line who else gets shot. You can't.

The CHAIRMAN. You can't do what on a picket line?

Mr. DEIS. What?

The CHAIRMAN. You said you couldn't do what on a picket line?

Mr. DEIS. I can't say this one.

The CHAIRMAN. I can't either. What I am trying to find out is you state in your affidavit that you got shot.

Mr. DEIS. Yes.

The CHAIRMAN. Who do you say in the affidavit shot you?

Mr. DEIS. Mr. Conger and Mr. Biever and John Raml, and Runge, these four that gathered on the sidewalk were with the shotguns.

The CHAIRMAN. Mr. Conger?

Mr. DEIS. That is right. Mr. Biever.

The CHAIRMAN. Mr. Conger.

Mr. KENNEDY. Mr. Conger?

Mr. DEIS. Yes.

The CHAIRMAN. And Mr. Biever?

Mr. DEIS. Biever.

The CHAIRMAN. Those two were employees of management or representatives of the Kohler Company, were they?

Mr. DEIS. That is right.

The CHAIRMAN. And the other two? What are their names?

Mr. DEIS. John Ruml. And Mr. Runge.

Mr. KENNEDY. You are saying R-u-n-g-e, I understand, and Raml, I understand.

The CHAIRMAN. Which one of those is now dead?

Mr. DEIS. John Raml.

The CHAIRMAN. Raml is dead?

Mr. DEIS. That is right.

The CHAIRMAN. And the other three now are living?

Mr. DEIS. That is right.

The CHAIRMAN. You say that they shot you. What did they shoot you with?

Mr. DEIS. Yes, they shot me.

The CHAIRMAN. Yes, they shot you. With a rifle, pistol, shotgun, or what?

Mr. DEIS. Shotguns.

The CHAIRMAN. With a shotgun?

Mr. DEIS. Shotguns.

The CHAIRMAN. All right. Which one of them shot you?

Mr. DEIS. Why?

The CHAIRMAN. No, not why, which?

Mr. DEIS. Which?

The CHAIRMAN. Who shot you? Which of the 3 or 4?

Mr. DEIS. Well, Mr. Conger, and Biever was on the front and I figure these two shot me.

The CHAIRMAN. Mr. Conger and——

Mr. DEIS. Conger——

The CHAIRMAN. Wait a minute. Mr. and Conger and Mr. Biever were in front?

Mr. DEIS. In front.

The CHAIRMAN. And you figured they are the two who shot you?

Mr. DEIS. That is right.

The CHAIRMAN. How many shots were fired at you?

Mr. DEIS. Two of them.

The CHAIRMAN. Two shots fired at you?

Mr. DEIS. That is right.

The CHAIRMAN. About the same time?

Mr. DEIS. No. No. One in the head first, and the second one come in the legs.

The CHAIRMAN. One did what; the first one did what?

Mr. DEIS. The first one got right in the head behind and the second one him come behind on the legs.

The CHAIRMAN. One come—one come where first?

One hit you in the hip?

Mr. DEIS. Yes, sir; one hit me right on the head.

The CHAIRMAN. Head or hip? One hit you on the head?

Mr. DEIS. On the head behind, yes; one shot.

The CHAIRMAN. On the head behind. Let's settle for that. I think I am right. And then how long was it before you were shot again?

Mr. DEIS. Well, that is all I was shot. I was just one shot.

The CHAIRMAN. Just one shot?

Mr. DEIS. No; two shots. You know, they shot me maybe in one second I get these two shots.

The CHAIRMAN. That is what I am trying to find out. The first shot——

Mr. DEIS. In one second I had these two shots.

The CHAIRMAN. One second more possibly another shot hit you in the leg?

Mr. DEIS. That is right.

The CHAIRMAN. Now we have it correct.

Did you see either Mr. Conger or Mr. Biever fire a shot at you?

Mr. DEIS. Oh, sure.

The CHAIRMAN. Which one of them fired first?

Mr. DEIS. What one? Me, I can remember, you know; Mr. Conger was the first one and Mr. Biever was the second one.

The CHAIRMAN. Mr. Conger fired the first shot?

Mr. DEIS. That is right.

The CHAIRMAN. And Mr. Biever fired the second shot?

Mr. DEIS. That is right.

The CHAIRMAN. How close were they to you?

Mr. DEIS. 35 feet away.

The CHAIRMAN. 35 feet away. Well, then, did Mr. Raml or Mr. Runge, either of them, shoot at you?

Mr. DEIS. They stand right behind these two.

The CHAIRMAN. They are standing right behind. There might be a lot of people behind them in a mob like that.

But did either of them shoot at you?

Mr. DEIS. There was about four of them together.

The CHAIRMAN. There was 4 together, and 2 shots were fired. It only took 1 man to fire 1 shot, didn't it?

I am trying to find out now if the other two—one of them is dead. I am trying to find out if either of the other two shot you?

Mr. DEIS. No, the other two never shot. You know, I know he had a shotgun in his hands and I know he handles. You know, Mr. Biever and Conger, he had his shotgun this way, and the other one had it under the arm, the other. They can not shot it when they got a shotgun under the arm, they cannot shot nobody.

The CHAIRMAN. I am not questioning your saying Mr. Biever shot you or Mr. Conger shot you. What I am trying to determine is whether either of the other two men actually shot you.

Mr. DEIS. Well, you can't shot these way. When you got a shotgun under the arm, you can't shot nobody.

The CHAIRMAN. Well, I will say I can't understand it. You are not helping me very much. You had Mr. Conger and Mr. Biever in front.

Mr. DEIS. That is right.

The CHAIRMAN. And the other two men were behind them?

Mr. DEIS. That is right.

The CHAIRMAN. And Mr. Conger shot you first?

Mr. DEIS. That is right.

The CHAIRMAN. Mr. Biever shot you next?

Mr. DEIS. That is right.

The CHAIRMAN. Who shot you next?

Mr. DEIS. Mr. Biever.

The CHAIRMAN. Did he shoot you twice?

Mr. DEIS. No, no, no. You say who shot you. Mr. Biever. That is always I had two shots.

The CHAIRMAN. Mr. Conger shot you first?

Mr. DEIS. That is right.

The CHAIRMAN. Then Mr. Biever shot?

Mr. DEIS. That is right.

The CHAIRMAN. That is two shots?

Mr. DEIS. All right.

The CHAIRMAN. Who else shot?

Mr. DEIS. Nobody else.

The CHAIRMAN. Then Raml and Runge, neither of them shot you?

Mr. DEIS. No.

The CHAIRMAN. Is that correct?

Mr. DEIS. No. That is correct, you know. You cannot shoot this way when they got a shotgun under the arm you can't shoot nobody. The other one had it straight.

The CHAIRMAN. Do we agree, am I correct now, you only got shot twice?

Mr. DEIS. Well, I have to tell what I know, Senator.

The CHAIRMAN. I want you to tell exactly what you know. I am not trying to keep you from doing that.

Mr. DEIS. No, I can't tell.

The CHAIRMAN. I don't want you to tell something wrong. I would hate to hear it. Listen to me a moment. You only got shot twice. Mr. Conger shot you once, Mr. Biever shot you once, and no one else shot you?

Mr. DEIS. No one else.

The CHAIRMAN. All right. We got it straight finally. Did you testify at some previous hearing?

Did you give some testimony regarding this strike and regarding the shooting on the 17th day of September 1935 in the office of Arthur H. Gruhle, court commissioner, in and for Sheboygan County, Wisconsin?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Do you remember having given that testimony, do you?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Were you sworn at that time?

Mr. DEIS. Yes, sir.

The CHAIRMAN. An oath was administered to you to tell the truth?

Mr. DEIS. I cannot state this one.

The CHAIRMAN. You don't even remember whether you were sworn or not?

Mr. DEIS. Yes, I was sworn.

The CHAIRMAN. All right, then. You were sworn to tell the truth.

That was in September 1935. Would that be about one year after you were shot?

Mr. DEIS. I was shot in 1934.

The CHAIRMAN. Yes.

What date in 1934 was it?

Mr. DEIS. In 1934? I can't think no more what date.

The CHAIRMAN. About the 27th of July?

Mr. DEIS. Yes, 27th, that is right.

The CHAIRMAN. July 27th is when you were shot?

Mr. DEIS. That is right.

The CHAIRMAN. One year and two months later, about 14 months later, you gave testimony regarding that shooting and regarding that riot, did you not, at this court where I have indicated?

Mr. DEIS. Yes, sir.

The CHAIRMAN. Is that correct?

Mr. DEIS. Yes.

The CHAIRMAN. The chair hasn't read this.

I am going to turn it over to counsel who will further interrogate you about your testimony at that time.

That was about a year or about 14 months afterwards, after the shooting, and you testified at that time. Now I will ask the attorney to interrogate you about your testimony at that time.

Mr. KENNEDY. I just have a couple of things on your testimony that I would like to ask you about. On page 237 you were asked about whether you saw anybody with guns. You were asked if you saw anybody with guns.

Mr. DEIS. Yes, sir.

Mr. KENNEDY. And the question was "Well, did you see anybody with guns?"

ANSWER. Yes, sir.

QUESTION. Who did you see?

ANSWER. Why, I see a lot of them.

QUESTION. Well, who?

ANSWER. Well, a lot of people with guns.

QUESTION. Well, did you know whether they were officers or not?

ANSWER. Well, I don't know if they were officers, I know two of them.

QUESTION. Who were those two?

ANSWER. Frank Brotz' boy and somebody else, I know the kid von the face, I don't know the name.

QUESTION. What kind of a gun did Frank Brotz' boy have?

ANSWER. Well, just a rifle gun.

Why did you tell them at that time if you saw Mr. Conger and Mr. Biever with guns, why didn't you tell them that you saw Mr. Conger and Mr. Biever with guns?

Mr. DEIS. Why?

Mr. KENNEDY. Why?

Mr. DEIS. You know—this time, you know, they say to me you cannot tell any officer from the Kohler Co., they can't tell us, nobody. You know, I come home, you know, and I talk to my wife, you know—

Mr. KENNEDY. When are you talking about? You came home and saw your wife?

Mr. DEIS. I say to my wife, and I told her all about what is going on there, and she told me don't say nothing to nobody. When you say you know the officer by Kohler, you know you was in here, and you tell everything, then you lose your job.

Then you been out of a job. That is when I shut my mouth.

Mr. KENNEDY. Why did you think you would lose your job?

Mr. DEIS. Well, you know, the whole truth, you know, say you have to keep still, Senator. You know, the Kohler Co. runs the whole Sheboygan County. Then you have to shut your mouth.

Mr. KENNEDY. You say you didn't tell them about it at this time because you were afraid you would lose your job?

Mr. DEIS. Yes, sir.

Mr. KENNEDY. You testified quite extensively on the fact that it was the Kohler Co. that was at fault with your being shot and with these other people being shot.

You told them that, at least. It wouldn't be much further just to tell them that it was Mr. Conger that was doing the shooting.

Mr. DEIS. Well, I see it, you know.

Mr. KENNEDY. But you said that you felt—over here you said, on page 250, you said that you felt that the blame was on Mr. Kohler, Mr. Conger, Mr. Biever, and certain other people.

You stated that.

QUESTION. Well, do you think they are to blame, and they name these people.

ANSWER. Well, somebody is to blame for it.

QUESTION. Well, do you think they are to blame?

ANSWER. No, I never think, but I feel this way. I mean, I feel this way.

QUESTION. Well, do you know whether they are to blame or not?

ANSWER. How?

QUESTION. Do you know whether they are to blame or not?

ANSWER. I don't know, but I just feel this way.

QUESTION. You just feel that they had something to do with it?

ANSWER. Yes, sir.

You indicated there that they were responsible. If you were willing to do that, certainly you were willing to tell them about Mr. Conger shooting you?

Mr. DEIS. Well, nobody say nothing this time, you know. There was an officer, you know, by the Kohler Co., and you say something, you know, and you squawk, and then you lose your job. I work for the city of Sheboygan this time, and you know when I squawk out on this one, on Mr. Conger or Mr. Biever, you know, then I lose my job maybe.

Mr. KENNEDY. Did you lose your job after you testified this time?

Mr. DEIS. Yes, when I testified, you know, this time, then I lose my job sure.

Mr. KENNEDY. Did you lose your job when you told them these things?

Mr. DEIS. Not that.

Mr. KENNEDY. In 1935 did you lose your job then?

Mr. DEIS. No, I never say a word. Then I never lose it.

Mr. KENNEDY. You say that you felt that the Kohler Co. was responsible for this. You did tell them that. You didn't lose your job.

Mr. DEIS. Then I lose my job by the city, you know, when I say these guys who are by and everything, and down there.

Mr. KENNEDY. What I don't understand is why it has taken 20 years to find that it was Mr. Conger and Mr. Biever who were responsible for doing the shooting, Mr. Deis. Why have you waited so long to say that it was Mr. Conger and Mr. Biever that shot you?

Mr. DEIS. Well, you know, I told you, you know, when I keep this one right away out, then I lose my job.

Mr. KENNEDY. The whole reason is because you felt you would lose your job?

Mr. DEIS. I lose my job, you know. I told you, the Kohler Co. run the whole Sheboygan County. You only have to shut your mouth this time. You have to keep still. My wife told me "You better keep still, or you been out of a job."

Mr. KENNEDY. You were asked specifically during that hearing about whether Mr. Conger or Mr. Biever or any of the officers were responsible for shooting you, personally, and you never indicated that they were responsible.

You didn't deny that they were responsible, but you never indicated that they had any responsibility on this, Mr. Deis.

Well, that is all.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Let me ask this question.

You were at that hearing, and you were asked this question: "Did you see who shot you?"

Mr. DEIS. Yes, sir.

The CHAIRMAN. You were asked that question when you testified in September 1935. You answered "Well, no, I never see. There is too many, see. I cannot tell who it was it. There is so many there."

Mr. DEIS. Well, I know, there is too many. I know there is too many. You know, we are come down on the end, you know——

The CHAIRMAN. Well, I don't know. You were asked a direct question: "Did you see who shot you?"

Mr. DEIS. Yes, sir.

The CHAIRMAN. I asked you that question this afternoon, and you said you did see Mr. Conger and Mr. Biever shoot you.

Mr. DEIS. That is right.

The CHAIRMAN. You were asked that question 19 years ago, approximately 1 year and a month or 2 after you were shot.

You were asked that question under oath, and you answered "Well, no, I never see. There is too many, see. I cannot tell who it was. There is so many there."

Now, didn't you deny then that you knew who shot you?

Mr. DEIS. Yes.

The CHAIRMAN. O. K. Are there any other questions?

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. Mr. Deis, I am going to ask you some questions, and if you don't understand them, be sure and tell me and I will rephrase the question.

Would you sign your name, John Deis, on a paper here, Mrs. Watt is handing to you?

(The witness complied with the request of Senator Curtis.)

Senator CURTIS. Just a short while ago, on March 12 of this year, you signed this paper, didn't you?

Mr. DEIS. That is right.

Senator CURTIS. And I believe you said you signed it in Mr. Rabinowitz' office?

Mr. DEIS. That is right.

Senator CURTIS. Who asked you to go to Mr. Rabinowitz' office?

Mr. DEIS. You know, somebody from the representative, he call me up, he want to see me down in the union office. I went down.

Senator CURTIS. Wanted to see you where?

Mr. DEIS. He wanted to see me down in the office, down by the union hall.

Senator CURTIS. The union office?

Mr. DEIS. Yes. I went down.

Senator CURTIS. Do you know who called you?

Mr. DEIS. Yes, sir.

Senator CURTIS. Who was it?

Mr. DEIS. Bob Treuer.

Senator CURTIS. Bob Treuer?

Mr. DEIS. Treuer.

Senator CURTIS. He is the UAW man?

Mr. DEIS. That is right.

Senator CURTIS. What did he say to you?

Mr. DEIS. Well, he say, "They want to see you down in Dave's office."

"Who wants to see me?"

He says, "Somebody down there."

Senator CURTIS. By Dave's office, did he mean Dave Rabinovitz?

Mr. DEIS. That is right.

Senator CURTIS. Did you go directly to Mr. Rabinovitz' office, or did you go to the union office?

Mr. DEIS. No, I went down right to Dave, to Dave Rabinovitz' office.

Senator CURTIS. But you know it was Bob Treuer that called you?

Mr. DEIS. What?

Senator CURTIS. You know it was Bob Treuer that called you?

Mr. DEIS. Yes, sir.

(At this point, Senator McClellan withdrew from the hearing room.)

Senator CURTIS. And he asked you to go to Mr. Rabinovitz' office?

Mr. DEIS. That is right.

Senator CURTIS. Who did you see there?

Mr. DEIS. Well, another man, you know, and I don't know his name, an attorney.

Senator CURTIS. There was an attorney and you didn't know his name?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did he say he was an attorney?

Mr. DEIS. What?

Senator CURTIS. Did he say that he was an attorney?

Mr. DEIS. Yes, sir.

Senator CURTIS. Who else was there?

Mr. DEIS. Nobody else.

Senator CURTIS. Just one person?

Mr. DEIS. That is all.

Senator CURTIS. What did he say to you?

Mr. DEIS. Well, he say he got calls from them and he got all kind of questions, and what I know, so I told him everything that I know, you know.

Senator CURTIS. Did he write it down?

Mr. DEIS. Yes, sir.

Senator CURTIS. How did he write it, with a pencil?

Mr. DEIS. With a pencil.

Senator CURTIS. With a pencil?

Mr. DEIS. Pencil.

Senator CURTIS. How long did you stay there?

Mr. DEIS. Well, maybe I stayed down maybe for not quite an hour, something like this, maybe an hour.

Senator CURTIS. What did he do after he wrote it down with a pencil?

Mr. DEIS. What?

Senator CURTIS. What did he do after he wrote it down with a pencil?

Mr. DEIS. Well, he write it on, you know, what I say, you know.

Senator CURTIS. Just the two of you were there?

Mr. DEIS. That is all, just the two.

Senator CURTIS. Did you sign a paper that day?

Mr. DEIS. No, no, no this day.

Senator CURTIS. Not that day?

Mr. DEIS. No.

Senator CURTIS. And there were just two people that were there that first day?

Mr. DEIS. That is right.

Senator CURTIS. That was before you signed the paper?

Mr. DEIS. That is right.

(At this point, Senator McClellan entered the hearing room.)

Senator CURTIS. About how many days before?

Mr. DEIS. Well, I cannot remember no more.

Senator CURTIS. Do you see any one behind you there in the court room that looks like the man that you saw down there?

Mr. DEIS. Dave Rabinovitz.

Senator CURTIS. He was there that first day?

Mr. DEIS. Do you mean in 1934?

Senator CURTIS. No, I am talking about when they went down to talk about this paper.

Mr. DEIS. He was not here. He was here in Washington.

Senator CURTIS. I didn't get the answer.

Mr. DEIS. Dave was not down at the office.

Senator CURTIS. When you went down to Dave's office, who was there?

Mr. DEIS. I have to think it. Dave's office girl was down there when I sign this one.

Senator CURTIS. No, but the first day you talked about it. There was just one man?

Mr. DEIS. Well, when I sign this paper, you know——

Senator CURTIS. No, the day before you signed it. When you went down to talk about it, and you said that he wrote it with a pencil, was there just one man in the office?

Mr. DEIS. Just one, yes.

Senator CURTIS. Had you ever seen him before?

Mr. DEIS. No, I guess not.

Senator CURTIS. Was it somebody that lives around there?

How long have you lived around there?

Mr. DEIS. Sheboygan?

Senator CURTIS. Yes.

Mr. DEIS. 46 years.

Senator CURTIS. Do you know a lot of people?

Mr. DEIS. I know a lot of people, yes.

Senator CURTIS. You had never seen this person before?

Mr. DEIS. No.

Senator CURTIS. You lived there 42 years?

Mr. DEIS. 46 years.

Senator CURTIS. 46 years.

How many years did you work for Kohler?

Mr. DEIS. Well, altogether coming 25 years out. The last time I worked 13 years on the one place.

Senator CURTIS. Did you get a retirement pension from them?

Mr. DEIS. Yes, sir.

Senator CURTIS. Are you drawing a retirement pension now?

Mr. DEIS. That is always I get it. \$12 a month.

Senator CURTIS. How much?

Mr. DEIS. \$12 a month.

Senator CURTIS. That is not the social security?

Mr. DEIS. No. \$12 pension a month. That is what I get it.

Senator CURTIS. Well, now, the day you went back and signed it, who did you see?

Mr. DEIS. I signed just—just the one girl give me this paper and I sign it, down by Dave's office.

Senator CURTIS. No one else was there?

Mr. DEIS. Well, there was two girls. The head one, you know, give it to me, and there was nobody else down.

Senator CURTIS. Just two girls there?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did either of them read it over to you?

Mr. DEIS. What?

Senator CURTIS. Did either of them read it to you?

Mr. DEIS. Yes, sir.

Senator CURTIS. Which one of the girls read it to you?

Mr. DEIS. The oldest one.

Senator CURTIS. She read it over?

Mr. DEIS. Yes, sir.

Senator CURTIS. Then what did she say?

Mr. DEIS. Well, they say if I know everything, and I say yes. Well, they say, do you want to sign it, and I say yes, I will sign it.

Senator CURTIS. So the day you signed it, you talked to no one but the girls?

Mr. DEIS. Nobody.

Senator CURTIS. This man that you saw the first day was a total stranger to you?

Mr. DEIS. Sure, I never seen him before.

Senator CURTIS. But you did talk to him?

Mr. DEIS. Do you mean that guy in the office?

Senator CURTIS. Yes.

Mr. DEIS. Yes, sir. I talked to him.

Senator CURTIS. Did he tell you that somebody wanted you to give this affidavit?

Mr. DEIS. He told me nothing.

Senator CURTIS. Why did he say he wanted the affidavit?

Mr. DEIS. Well, he say, he write it up, you know, and he want to know everything, what I say, and everything and I don't know what he do me then.

Senator CURTIS. You thought he was an attorney?

Mr. DEIS. Yes, sir.

Senator CURTIS. Who did you think he was an attorney for?

Mr. DEIS. Well, I don't know. I never see him in Sheboygan.

Senator CURTIS. Did you think he was attorney for this committee?

Mr. DEIS. No. I guess the guy is from Milwaukee. That is what I think.

Senator CURTIS. You thought he was somebody from Milwaukee. How long were you there the day you signed the paper? How long were you there the day you signed this paper?

Mr. DEIS. This paper? Well, I sign it and I leave right away.

Senator CURTIS. How long were you there before you signed it?

Mr. DEIS. Well, about an hour down there. That is all. One hour.

Senator CURTIS. One hour?

Mr. DEIS. Yes, and then I signed the paper and left.

Senator CURTIS. You were there an hour each day, and on the day that you just talked to the girls?

Mr. DEIS. Yes, sir, the day I went down there with the girls, yes, sir.

Senator CURTIS. Did you see Mr. Conger—and I am talking about back there that day of the riot in 1934—did you see Mr. Conger shoot?

Mr. DEIS. Yes, sir.

Senator CURTIS. Well, now, what was in his gun? Was it gas, or was it some kind of shot?

Mr. DEIS. Shotgun.

Senator CURTIS. What kind of shells were in it?

Mr. DEIS. Well, BB shots.

Senator CURTIS. Were there any guns with tear gas?

Mr. DEIS. Yes, sir. I see a lot of them, a lot.

Senator CURTIS. What kind of guns were they?

Mr. DEIS. What?

Senator CURTIS. What kind of guns did they use for the tear gas?

Mr. DEIS. Well, I don't know this, you know. It was so dark I can't see it. They throw them all over, the tear gas. It was so dark you can't see it. You don't know who shot it.

Senator CURTIS. Did you shoot the tear gas with guns?

Mr. DEIS. Yes, sir. You cannot see.

Senator CURTIS. Did they use shotguns for that?

Mr. DEIS. What?

Senator CURTIS. Did they use shotguns for the tear gas?

Mr. DEIS. I don't know this. You know, this four guys who I see, you know, got shotguns.

Senator CURTIS. The men who shot tear gas, did they use shotguns?

Mr. DEIS. You can't see it. You can't tell it. You have to wipe your eyes and everything else. You cannot look no more. It was like a regular snowstorm, rocks and everything.

Senator CURTIS. How did they shoot the tear gas? With guns?

Mr. DEIS. Well, must be. I don't know. You can't see it. It was dark, you know, and everything, and rocks and everything, you have to protect your head and everything.

Senator CURTIS. Were you shot any place but in the back?

Mr. DEIS. I?

Senator CURTIS. Yes.

Mr. DEIS. Yes, I was shot right behind here on by head.

Senator CURTIS. And any place else?

Mr. DEIS. What?

Senator CURTIS. Any place else? Were you shot any place else besides the back of your head?

Mr. DEIS. Not as I know. I, do you mean?

Senator CURTIS. Yes, you.

Mr. DEIS. Yes, I was shot in the legs.

Senator CURTIS. The back of the legs or the front?

Mr. DEIS. The first shot I get it here and the second shot in the legs.

Senator CURTIS. The back side of your legs or the front side?

Mr. DEIS. The back, right in the back.

Senator CURTIS. Whoever shot you was behind you?

Mr. DEIS. Well, you know, Mr. Conger and Biever was the closest ones. That is only the two guys what is close.

Senator CURTIS. Whoever did shoot you, were they back behind you?

Mr. DEIS. What?

Senator CURTIS. The person who shot you, were they behind you or in front of you?

Mr. DEIS. They were in the front, who shot me, right in the front.

Senator CURTIS. And you were facing them?

Mr. DEIS. No, I never face them. I face my face this way, you know.

Senator CURTIS. You were looking away from them?

Mr. DEIS. Thirty-five feet away.

Senator CURTIS. Which way were you looking?

Mr. DEIS. I am looking this way, and they stand behind me.

Senator CURTIS. They were behind you?

Mr. DEIS. Yes, sir.

Senator CURTIS. How could you see them if they were behind you?

Mr. DEIS. Well, you know, I pick my coat up here, I had the first shot. You know, my coat was on the floor. You know, so I run around my head this way and so I see Mr. Biever there with the shotgun this way, and Mr. Conger, and the other two they had it under the arm.

Senator CURTIS. Who had their shotgun under their arm?

Mr. DEIS. Mr. Runge and Mr. Ruml.

Senator CURTIS. About what time in the evening was the shooting?

Mr. DEIS. Oh, it must be something like this about 8 o'clock, I guess, 7 or 8, between 7 or 8, something like this.

Senator CURTIS. Was it dark or not?

Mr. DEIS. It was dark, darkness was coming, yes, sir.

Senator CURTIS. How dark was it?

Mr. DEIS. What?

Senator CURTIS. How dark was it?

Mr. DEIS. You know, when you had no light on you can see these guys, they had a light on, so they can see it, and the light, it come right on these guys in the face, and they come out there in the drugstore and the shoe building, on the light, and that is where you see these people.

Senator CURTIS. It was night but the light was coming out from the stores?

Mr. DEIS. Right out the window, yes.

Senator CURTIS. Now, were the facts that you told in this affidavit on March 12, this year, the same facts that you told back there soon after it happened?

Mr. DEIS. When I signed the affidavits?

Senator CURTIS. Yes.

Mr. DEIS. Yes, sir.

Senator CURTIS. You thought in this affidavit were the same facts that you told back at the time that they took your testimony in 1934?

Mr. DEIS. Not this one here for 1934.

Senator CURTIS. Well, but the things you said in there, were they the same that you said in 1934?

Mr. DEIS. Yes, I signed this, yes.

Senator CURTIS. Yes, but the facts that are in here, are those the same facts that you testified to in 1934?

Mr. DEIS. Yes, sir.

Senator CURTIS. They are?

Mr. DEIS. Yes.

Senator CURTIS. Is that what you thought when you signed it?

Mr. DEIS. Yes.

Senator CURTIS. Did you think that you were changing your story from 1934?

Mr. DEIS. I cannot know this.

Senator CURTIS. Did you think you were telling the same story when you signed this, as when you testified back in 1934 or 1935?

Mr. DEIS. I cannot come into this.

Senator CURTIS. You didn't understand my question?

Mr. DEIS. No.

Senator CURTIS. You testified back in September of 1935. Now, did you tell the same story in 1935 that you told in this affidavit that you signed in March of 1958?

Mr. DEIS. No, there is a difference, different affidavits, you know.

Senator CURTIS. They are different affidavits, but is your story as to what happened, did you tell the same both times?

Mr. DEIS. I told them what happened; yes.

Senator CURTIS. And you told it the same both times?

Mr. DEIS. No, I just told them here, this in 1958, I told them this one here in 1958, I told not what I say in 1934 or 1935.

Senator CURTIS. It wasn't what you said in 1934 or 1935?

Mr. DEIS. No, sir, I never said nothing in this one.

Senator CURTIS. Did the man that you talked to, did he say anything about what you said in 1935?

Mr. DEIS. No.

Senator CURTIS. He didn't?

Mr. DEIS. No.

Senator CURTIS. Well now, did you know a man named Ingleman?

Mr. DEIS. Yes, sir.

Senator CURTIS. Do you know who shot him?

Mr. DEIS. No, somebody, some lady hollered, "Ingleman is shot."

Senator CURTIS. You don't know who shot him?

Mr. DEIS. No, no, you can't tell, when four or five thousand people are there, most of them, and kids are there, and you can't tell, and the whole village went down.

Senator CURTIS. You don't know who shot Ingleman?

Mr. DEIS. No, just I heard a lady hollered, "Somebody shot Ingleman."

Senator CURTIS. Who do you say that Mr. Conger and Mr. Biever shot?

Mr. DEIS. Who would say?

Senator CURTIS. Who did Mr. Conger and Mr. Biever shoot, if anybody?

Mr. DEIS. No, not that I know.

Senator CURTIS. Did they shoot anybody?

Mr. DEIS. Not as I know. All I know they shot me, and I don't know if they shot somebody else.

Senator CURTIS. How many people were around there when you got shot?

Mr. DEIS. Who I got shot, you mean, there were many.

Senator CURTIS. How many?

Mr. DEIS. Say, I was far down here on the line, maybe, and who can figure, but I stayed there, maybe about 50 or 75 people were down there, and some more on the sidewalk.

Senator CURTIS. How big a crowd was around there.

Mr. DEIS. On the sidewalk, you can figure on the whole sidewalk, maybe 1,000 or 2,000 people, and I was on the end, just a couple of people, when some more went down, and maybe he shot some more.

Senator CURTIS. At about the time that you got shot, how big a crowd was around there, about a thousand or two?

Mr. DEIS. No, I got shot down on this place, and I was down around and when I took my coat out, and when these people went there, and I say, "Listen," here may never come out on the picket line for somebody, and I say, "When you guys want to fight it out come on and fight me, and not be checked by guns, and the gas, or something like that, and when you want to fight it out, fight it out with bare hands."

And you know, you run around and told me, me want to show you something, and then I got it right away. You shot me blinded then. I just run around and when I pick my coat up here I got a shot, and the second shot I fell down, and I so scratched my legs and everything, and I went up.

Senator CURTIS. Whoever shot you was behind you?

Mr. DEIS. Mr. Biever and Mr. Conger.

Senator CURTIS. They were behind you?

Mr. DEIS. Right behind, 35 feet away.

Senator CURTIS. Well, how could you see them shoot?

Mr. DEIS. Well, nobody else but him had shotguns.

Senator CURTIS. How many were there?

Mr. DEIS. Well four guys on the sidewalk with the shotguns.

Senator CURTIS. Four men?

Mr. DEIS. Four men.

Senator CURTIS. Was anybody else anywhere around?

Mr. DEIS. With shotguns, you mean?

Senator CURTIS. Yes.

Mr. DEIS. No, not on this place. Maybe there were a lot on the other end.

Senator CURTIS. Was there anybody around there who didn't have guns?

Mr. DEIS. I cannot say this one. What do you mean?

Senator CURTIS. Well now, you say of those four people, today you say it was Mr. Conger and Mr. Biever that shot you?

Mr. DEIS. That is right.

Senator CURTIS. Now, in this affidavit that you signed, on March 12, I will read from it:

That he says he is positive that he was shot by the four deputies, Biever, Conger, Runge, and Raml. That he caught sight of them as he bent over for his coat, but he could not say which ones or whether all four were shooting at him, except that they did shoot him.

Now, on March 12 you said that there were 4 people there, and you did not know which of the 4 shot you. Did you say that?

Mr. DEIS. No; well, here is the idea: You know I saw them with my eyes, and they had their shotguns this way and the other 2 headed down, and now I cannot say the other 2 shot.

Senator CURTIS. There were four men there?

Mr. DEIS. That is right: four men.

Senator CURTIS. Who do you say today shot you, of the four?

Mr. DEIS. These four men, you mean?

Senator CURTIS. Which of those four men today you say?

Mr. DEIS. They shot me on the front and behind.

Senator CURTIS. Well, who do you say today shot you?

Mr. DEIS. I cannot understand this question.

Senator CURTIS. Who shot you?

Mr. DEIS. Mr. Conger and Mr. Bieber.

Senator CURTIS. Now, I want you to look at this paragraph that I read, and I will read it over again:

That he says he is positive that he was shot by the four deputies, Bieber, Conger, Runge, and Raml, and that he caught sight of them shooting him as he bent over for his coat, but he could not say which ones or whether all four were shooting at him, except that they did shoot.

Mrs. Watt, will you hand that to Mr. Deis and ask him, and I will ask Mr. Deis to read the last paragraph on that page. Mrs. Watt will show it to you. Read it out loud for us.

(A document was handed to the witness.)

Senator CURTIS. Will you read it out loud?

Mr. DEIS. I cannot do the reading.

Senator CURTIS. Do you read English?

Mr. DEIS. A little bit.

Senator CURTIS. Read it the best you can.

Mr. DEIS. I cannot read this one, I know it.

Senator CURTIS. You cannot read that?

Mr. DEIS. No.

Senator CURTIS. Do you understand what it means?

Mr. DEIS. Yes, sir.

Senator CURTIS. What does it say?

Mr. DEIS. Well, it says these 4 guys, any of them, these 4 guys shot.

Senator CURTIS. Did you say there in that paper that you didn't know which ones?

Mr. DEIS. That is right, Mr. Chairman; you are right; you know I went around and I turned around and I see it then, these two behind shot me.

Senator CURTIS. In that paper, who does it say shot you? You don't have to read it out loud, but you look at it, and tell me who it says, who you say in that paper shot you.

Mr. DEIS. Well, any of these 4, it means any of these 4, somebody shot me from these 4.

Senator CURTIS. Does it say that you didn't know which ones?

Mr. DEIS. No; any of them from these four.

Senator CURTIS. Any of those four?

Mr. DEIS. Yes.

Senator CURTIS. Now, look at it again and see if it says that you didn't know which ones of the four shot you.

Mr. DEIS. Yes, sir.

Senator CURTIS. It does say that?

Mr. DEIS. Yes, sir.

Senator CURTIS. Well now, you testified here today that Mr. Conger and Mr. Biever shot you?

Mr. DEIS. Well, that is right. I turned around and I can't see the other two guys. They had their shotguns in his hands, and they had them on their arms, you know, and these two had them in their hands.

Senator CURTIS. But Mr. Deis, here, long after you quit working at Kohler, so there is no job to lose, on March 12, 1958, you signed a paper that says that you couldn't tell which of the four men shot you, didn't you?

Mr. DEIS. That is right.

Senator CURTIS. Now you come here today, and you tell us that you do not know who shot you?

Mr. DEIS. Well, I know it; I see it.

Senator CURTIS. Well, then, the paper isn't correct?

Mr. DEIS. Somebody made a mistake; I can't tell, and not I.

Senator CURTIS. I think, Mr. Deis, you are trying to be honest, and I think that you have been called in here, and it is a situation where you were asked to sign some things, and you have told me that you couldn't read it. Now, look over the whole affidavit, and I am not going to ask you to read it, but is there anything in there that you can't read?

Mr. DEIS. I can't read not so good.

Senator CURTIS. What is that?

Mr. DEIS. I can read, but not so good.

Senator CURTIS. Not too good?

Mr. DEIS. No.

Senator CURTIS. Is there anything in there that you don't understand?

Mr. DEIS. I can't say, to that question.

Senator CURTIS. What was the answer?

Mr. DEIS. There is a lot where I cannot read.

Senator CURTIS. There is a lot in it that you can't read?

Mr. DEIS. That is right.

Senator CURTIS. Did you tell them at the time that you signed it there was some of it that you couldn't read?

Mr. DEIS. Well, you read it, and I listened to it; that is all.

Senator CURTIS. But you had to take their word for it?

Mr. DEIS. That is right.

Senator CURTIS. You couldn't read all of that document and make sure that you knew what you were signing yourself, could you?

Mr. DEIS. Yes; I know what I signed.

Senator CURTIS. But some of it you couldn't read?

Mr. DEIS. Everybody makes mistakes, and maybe I make mistake, and maybe somebody else; that is what I think. Mistake is made by everybody.

Senator CURTIS. Now, you had to testify about this in 1935, didn't you?

Mr. DEIS. What testified, you mean?

Senator CURTIS. About the shooting, didn't you?

Mr. DEIS. Yes, sir.

Senator CURTIS. And they called you in and asked you questions in 1935?

Mr. DEIS. In 1935, yes, they asked me something; sure.

Senator CURTIS. Did they ask you this question: "Did you see who shot you?"

Mr. DEIS. Yes.

Senator CURTIS. And you answered, "Well, no; I never see. There is too many, see. I cannot tell who it was. There is so many there." Did you say that in 1935?

Mr. DEIS. That is right; that is right, Senator.

Senator CURTIS. So, in 1935 you said there were so many people there, you couldn't see who shot you?

Mr. DEIS. That is right.

Senator CURTIS. Was that true?

Mr. DEIS. That is right.

Senator CURTIS. Do you know what direction the shots were coming from that shot you?

Mr. DEIS. Most of them; the most shots were coming out from the group in the drugstore down here.

Senator CURTIS. When they asked you that question back in 1935, "Do you know what direction the shots were coming from that shot you?" and you answered, "Yes, sir," do you remember that?

Mr. DEIS. Yes, sir.

Senator CURTIS. "Where were they coming from?" And you said, "Right from the drugstore."

Mr. DEIS. From the drugstore, between the drugstore and the shoe-store, right by the middle, you know; something like this.

Senator CURTIS. What building is between the drugstore and—

Mr. DEIS. The drugstore is the first, and then they have one building, and then comes the shoeshop, you know; that is where they were standing, a little way from the shoeshop, between the drugstore and between the shoeshop.

Senator CURTIS. What store is between this drugstore and the shoe-shop?

Mr. DEIS. Well, I don't know. There must be a hollow; they must be all done.

Senator CURTIS. What is that?

Mr. DEIS. A hall, where you hold a meeting.

Senator CURTIS. Not the American Club?

Mr. DEIS. No, the American Club is farther away this way.

Senator CURTIS. Which direction is the drugstore?

Mr. DEIS. The drugstore; well, it is the same direction or it is closer on the sidewalk, and the American Club is farther away.

Senator CURTIS. Do you know where the gate is in Kohler's, the main gate?

Mr. DEIS. Yes, sir.

Senator CURTIS. Which way is the drugstore from the main gate?

Mr. DEIS. From the main gate, the drugstore is from the main gate, you know, a little ways; well, here it is.

Senator CURTIS. Is it east or west or south?

Mr. DEIS. Well, I am all mixed up.

Senator CURTIS. As you think of the back there, which way is the drugstore from the main gate?

Mr. DEIS. From the main gate, you know, you go across the road here and just a little way this way. There is the drugstore, and the American Club is straight up from the main office.

Senator CURTIS. Are they in opposite directions, the drugstore and the American Club?

Mr. DEIS. You know, the drugstore is a little way eastway from the big office.

Senator CURTIS. Is the drugstore the opposite direction from the American Club, from the gate? They are not in the same direction, are they?

Mr. DEIS. Oh, no; when they go out on the gate, and you go straight over the road, then you come on the sidewalk, and the drugstore is a little ways this way, and the club, you can go in the American Club straight in there.

Senator CURTIS. Well, now back in 1935 you were asked with reference to the direction the shots were coming from, you were asked this question: "Where were they coming from," and you answered, "Right from the drugstore." Is that true?

Mr. DEIS. Between the drugstore and the shoeshop, between these two buildings; that is right.

Senator CURTIS. The drugstore, that is from the west, is it not? You were asked that question, and you said, "The drugstore is on the west; yes"; is that right?

Mr. DEIS. I don't know whether it is west or south or east. You know there are lot of gentlemen I see down here.

Senator CURTIS. Now, which happened first, the tear-gas shots or the shots of buckshot or some sort of pellets?

Mr. DEIS. Well, in the first, in the tear and then the second, the tear gas coming, and then the shots coming out all over, and I don't know where from.

Senator CURTIS. But the first shots; were they tear gas?

Mr. DEIS. Tear gas.

Senator CURTIS. That was the first shots?

Mr. DEIS. That is, what is the first shots.

Senator CURTIS. Did that get in your eyes?

Mr. DEIS. Yes, sir.

Senator CURTIS. And the first shot that you saw, or know that took place, was tear gas?

Mr. DEIS. Tear gas.

Senator CURTIS. Was there lots of tear gas?

Mr. DEIS. Oh, yes.

Senator CURTIS. Was there lots of tear gas there when you got shot in the back of the head?

Mr. DEIS. Oh, no; no tear gas down on this end, I never saw tear gas. The tear gas was right by the American Club, straight on, that is where the tear gas was. There were rocks and everything.

Senator CURTIS. Did you sue the Kohler Co. back in 1934 or 1935?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did you want to win your case?

Mr. DEIS. We want to win but I cannot.

Senator CURTIS. Did you want to win it? Did you try to win your case in 1935?

Mr. DEIS. My trouble?

Senator CURTIS. Did you try to win it?

Mr. DEIS. I try to win it, I mean.

Senator CURTIS. If you had known who shot you in 1935, wouldn't it have helped you to say so?

Mr. DEIS. Well, I sued them, that is what I wanted to do.

Senator CURTIS. If you could prove that Kohler officers shot you, then they would have to pay you damages, wouldn't they?

Mr. DEIS. Sure they shot me.

Senator CURTIS. But when they question you on September 17, 1935, you told them you did not know who shot you, is that correct?

Mr. DEIS. Yes, I told you who shot me, that is right.

Senator CURTIS. You told them you did not know.

Mr. DEIS. Yes, I told you who shot me.

Senator CURTIS. In 1935 you told them who shot you?

Mr. DEIS. In 1935?

Senator CURTIS. Yes.

Mr. DEIS. Well, you asked me who shot me, and I told you.

Senator CURTIS. But when they asked you in 1935, what did you say?

Mr. DEIS. Well, you shot me, that is all.

Senator CURTIS. Did you say who shot you?

Mr. DEIS. No, that is right, I come right behind, Senator, that is right, I never, that is right.

Senator CURTIS. Do you know the Brotz boy?

Mr. DEIS. What is that?

Senator CURTIS. Do you know the Brotz boy?

Mr. DEIS. Brotz, yes, sir; I know him well.

Senator CURTIS. Did he have a gun down there that night?

Mr. DEIS. He did I guess, I cannot tell whether it was a shotgun or the gas or it was dark, but I know him well.

Senator CURTIS. He had a gun?

Mr. DEIS. It must be.

Senator CURTIS. Now, you were asked in this same deposition, when they took your testimony, "Well, did you see anyone with guns?" and you answered, "Yes, sir." Then they asked, "Who did you see?" and the answer: "Why, I see a lot of them."

Question. Well, who?

Answer. Well, a lot of people with guns.

Question. Well, did you know whether they were officers or not?

Answer. Well, I don't know if they were officers. I know two of them.

Did you say that back in 1935?

Mr. DEIS. No, I never say not these two, no. I say there were a lot of them but I never say these two.

Senator CURTIS. You mean you never mentioned Mr. Biever and Mr. Conger?

Mr. DEIS. No, sir.

Senator CURTIS. Did you know at the time that they shot you?

Mr. DEIS. Huh?

Senator CURTIS. When did you first learn that they shot you?

Mr. DEIS. Well, you mean what time?

Senator CURTIS. When did you find that out about Mr. Conger?

Mr. DEIS. I find out right away, that is why I want to come in, and I find out right away, he shot me, and you know, and I told this a couple of times right here on this stand, I have to shut my mouth. You know I come here and talk to my wife, and my wife said, "You better

shut your mouth, you lose your job, and no say it is officer shot you," or something like this, you know, and so I shut my mouth.

And I tell you gentlemen before.

Senator CURTIS. When you were asked in 1935 who the two were that had guns, you said, "Frank Brotz' boy and somebody else. I know the kid on the face, and I don't know the name."

Mr. DEIS. So am I, I don't know the name, I know Brotz, but I don't know the other one.

Senator CURTIS. You saw another boy there?

Mr. DEIS. I saw a lot of them, yes, sir.

Senator CURTIS. You were asked what kind of a gun did Frank Brotz' boy have?

Mr. DEIS. What time?

Senator CURTIS. What kind of gun, and you answered.

Mr. DEIS. I don't know, you can't see it.

Senator CURTIS. You said, "Well, a rifle gun."

Mr. DEIS. Something like this, a rifle or a shotgun, and you can't see it.

Senator CURTIS. Because it is dark?

Mr. DEIS. It is dark, and you can't see it, and not this alone, you know, I told this a couple of times, all of the gas in the world here, and you have to wipe your eyes out, and you can't see it.

Senator CURTIS. It was dark and you had the tear gas in your eyes?

Mr. DEIS. That is right. I have to wipe it out, out of the eyes.

Senator CURTIS. And they shot you from behind?

Mr. DEIS. Yes, they shot me from behind.

Senator CURTIS. You couldn't see who shot you then, could you?

Mr. DEIS. Sure, I know who shot me.

Senator CURTIS. But I didn't ask you whether you knew. Could you see who shot you?

Mr. DEIS. Oh, no; I can't see it, no.

Senator CURTIS. So when you say that Mr. Biever and Mr. Conger shot you, you are not basing it on what you saw. You did not see them shoot you?

Mr. DEIS. I never say what to anybody that Biever.

Senator CURTIS. You never told anyone?

Mr. DEIS. No, just my wife.

Senator CURTIS. Who did you tell lately who shot you?

Mr. DEIS. You know, I never say, you know, maybe since 13 or 20 years ago, when we started in 1941 something like this.

Senator CURTIS. Now, I want to ask you some more about this today that you went down, when Bob Treuer called you to come down to Mr. Rabinovitz' office.

Mr. DEIS. Yes, sir.

Senator CURTIS. We will talk about that for a little while. Did you recognize Bob Treuer's voice over the phone or did he say he was Bob Treuer?

Mr. DEIS. No, he called me up.

Senator CURTIS. And he said he was Bob Treuer?

Mr. DEIS. Yes, he told me to come down and he wanted to see me in the union hall.

Senator CURTIS. To the union hall?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did you go to the union hall?

Mr. DEIS. Yes, sir.

(At this point, the following members were present: Senators McClellan, Goldwater, Mundt, and Curtis.)

Senator CURTIS. Who did you see at the union hall?

Mr. DEIS. Well, I see Treuer. Nobody else. I talk to him.

Senator CURTIS. You just talked to Treuer?

Mr. DEIS. What?

Senator CURTIS. You just talked to Treuer?

Mr. DEIS. To Bob Treuer.

Senator CURTIS. What did he tell you then?

Mr. DEIS. He wanted to see me down in the office.

Senator CURTIS. Did he say anything about Mr. Conger?

Mr. DEIS. Not a thing.

Senator CURTIS. Did he say anything about Mr. Biever?

Mr. DEIS. Not a thing.

Senator CURTIS. But he told you to go to Mr. Rabinovitz' office?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did you go right over there that day?

Mr. DEIS. What?

Senator CURTIS. And you went right over there?

Mr. DEIS. I went down, yes.

Senator CURTIS. And there was just one man in the office?

Mr. DEIS. Just the one man down, that is all.

Senator CURTIS. No girls?

Mr. DEIS. Well, the girls were in the other room.

Senator CURTIS. The other room?

Mr. DEIS. Yes, sir.

Senator CURTIS. What did this man look like that you saw there?

Mr. DEIS. Well, he got black hair, dark face, you know.

Senator CURTIS. Black hair. What kind of face?

Mr. DEIS. Dark face, you know, little dark face.

Senator CURTIS. You thought he was an attorney?

Mr. DEIS. I guess so.

Senator CURTIS. And you thought he was from Milwaukee?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did he say anything about Biever?

Mr. DEIS. No, sir, not a thing.

Senator CURTIS. Did he say anything about Conger?

Mr. DEIS. No.

Senator CURTIS. Did you ever see him after that?

Mr. DEIS. No.

Senator CURTIS. And you had never seen him before?

Mr. DEIS. No.

Senator CURTIS. In all your years around there, you never saw him before?

Mr. DEIS. No.

Senator CURTIS. What did he say when you came in?

Mr. DEIS. Down at the office?

Senator CURTIS. Yes.

Mr. DEIS. I say "Hello."

Senator CURTIS. Then what did they say?

Mr. DEIS. I say "Hello" to the girls.

Senator CURTIS. Yes.

Mr. DEIS. I asked the girls who wants to see me. They say, "The gentleman down in the other room."

Senator CURTIS. What did he say?

Mr. DEIS. Well, you know, I shake hands with him and everything, so he talked to me here, and he say—he talked from the copies and everything, and, you know, what I say and everything, and I told him all about, you know.

Senator CURTIS. What did he say the first thing?

Mr. DEIS. I cannot remember.

Senator CURTIS. When you first saw him? You said "Hello" to the girls, they told you to go back and see that man. What did he say the first thing?

Mr. DEIS. Well, I don't remember this one no more. I don't know.

Senator CURTIS. Do you remember anything that he told you?

Mr. DEIS. No.

Senator CURTIS. Do you remember anything you told?

Mr. DEIS. Yes, was I say—he asked me a couple of questions here, you know, from the strike and everything, so I told him, you know.

Senator CURTIS. What were the questions he asked you about the strike?

Mr. DEIS. Well, you know, was I in the 1934 strike and everything, and the strike here, what we got here, and I say yes, so I told him all about, and what was around and everything. That is what I told him.

Senator CURTIS. Who did you think he was?

Mr. DEIS. Well, I can't not tell who the man was. I don't know. I never ask him.

Senator CURTIS. This lawyer you saw down there, did he mention Mr. Rabinovitz' name, Dave Rabinovitz' name?

Mr. DEIS. Yes, sir.

Senator CURTIS. What did he say about him?

Mr. DEIS. He said, "Do you know Dave?" and I say "Yes, I know him for 25 or 27 years." I said, "I know Dave well." That is all it was me told him.

Senator CURTIS. Did he use to be your lawyer?

Mr. DEIS. Dave?

Senator CURTIS. Yes.

Mr. DEIS. Well, you know I have not much to do. Dave he got good friend of mine.

Senator CURTIS. When you sued the Kohler Co., was he your lawyer?

Mr. DEIS. No; Fitzpatrick, from Milwaukee. Fitzpatrick.

Senator CURTIS. When you sued the Kohler Co.?

Mr. DEIS. Yes, sir.

Senator CURTIS. Did Rabinovitz have anything to do with that?

Mr. DEIS. Well, he was on, you know. You know, Fitzpatrick do the thing.

Senator CURTIS. I don't understand.

Mr. DEIS. I mean Rabinovitz, he was down; sure. Fitzpatrick, he took me with the 47 guys what was on.

Senator CURTIS. Well, now, was Rabinovitz your lawyer when you sued the Kohler Co.?

Mr. DEIS. I say Fitzpatrick was down.

Senator CURTIS. Do you remember in 1935 this testimony, when you were asked the question: "How much was your doctor bill?" and you answered, "I don't know. I gave it down to Dave Bino.

QUESTION. To whom?

ANSWER. To my lawyer.

QUESTION. Who is your lawyer?

ANSWER. Dave Bino.

QUESTION. Do you mean Mr. Rabinovitz?

ANSWER. Yes, sir.

Did you say that?

Mr. DEIS. Yes. Do you mean in 1935?

Senator CURTIS. Yes, in 1935.

Mr. DEIS. Yes, sir.

Senator CURTIS. In 1935, they asked you these questions:

Do you know Edward Biever?

Answer. Yes, sir.

Question. Do you know Ernest Schuelke?

Answer. Yes, sir.

Question. Ed George?

Answer. Yes.

Question. John Case?

Answer. Yes, sir.

Question. Walter Kohler, Jr.?

Answer. Yes, sir.

Question. Robert Kohler?

Answer. Yes, sir.

Question. Herbert Kohler?

Answer. Yes, sir.

Question. And Governor Kohler?

Answer. Yes, sir.

Question. And the Kohler Co.?

Answer. Yes, sir.

Question. Do you feel that any one of those persons that I have just mentioned, or all of them, are at fault for your getting shot that night?

Answer. I feel for; yes.

Question. Well, do you think that they are to blame?

Answer. Well, somebody to blame down for.

Question. Well, do you think they are to blame?

Answer. No; I never think, but I feel this way. I mean I feel this way.

Question. Well, do you know whether or not they are to blame?

Answer. How?

Question. Do you know whether they are to blame or not?

Answer. I don't know, but I feel this way.

Question. Do you think they had something to do with it?

Answer. Yes, sir.

Question. What makes you think so?

Answer. Well, I think this way. You know, nobody around Sheboygan told these boys down there go ahead and shoot. That is what I got in my head.

Question. Did you read this complaint, or have you read it?

Answer. No; I never read it.

(At this point, Senator Ervin came into the hearing room.)

Senator CURTIS. In 1935, you told them that you thought that these men of the company were to blame because somebody told others to shoot, is that right?

Mr. DEIS. I cannot state this question.

Senator CURTIS. You don't understand the question?

Mr. DEIS. No. No, I cannot.

Senator CURTIS. Well, it was true that you held up your hand and swore to tell the truth, didn't you?

Mr. DEIS. Yes, sir.

Senator CURTIS. In 1935?

Mr. DEIS. Yes, sir.

Senator CURTIS. And when you swore to tell the truth, you said you didn't know who shot you?

Mr. DEIS. I know who shot me.

Senator CURTIS. Well, did you say that you didn't know?

Mr. DEIS. No, I say I know who shot me.

Senator CURTIS. No, in 1935, did you say you didn't know who shot you?

Mr. DEIS. Yes, sir. I know who shot me.

Senator CURTIS. I will ask you again. You were asked this question:

Did you see who shot you?

ANSWER. Well, no; I never see. There are too many, see. I cannot tell who it was, there are so many there.

Did you say that?

Mr. DEIS. That is right.

Senator CURTIS. And you were sworn to tell the truth?

Mr. DEIS. That is right.

Senator CURTIS. What is the truth?

Mr. DEIS. That is right.

Senator CURTIS. I wonder, Mr. Chairman, and it might clarify things; this witness, I think, has tried his very best; he has cooperated the very best he can. I think it might help clear up the situation if there are others in the hearing room who could supply the name of the man that he talked to at Mr. Rabinovitz's office in connection with this affidavit of March 12.

The CHAIRMAN. Mr. Rabinovitz, would you know?

Mr. RABINOVITZ. Yes; I know.

The CHAIRMAN. You have been sworn heretofore.

TESTIMONY OF DAVID RABINOVITZ—RESUMED

The CHAIRMAN. Do you know who this witness talked to in your office at the time this office was taken?

Mr. RABINOVITZ. I do.

The CHAIRMAN. State his name, please.

Mr. RABINOVITZ. His name is Leonard Zubrensky.

The CHAIRMAN. Is he associated with you in your law practice?

Mr. RABINOVITZ. No, sir. Since I have been engaged here in Washington for this long period of time, I asked Mr. Zubrensky to come to Sheboygan as often as he could, and as much as could, probably 2, 3, 4 days a week, and do my work at my office during my absence.

The CHAIRMAN. Is he a lawyer?

Mr. RABINOVITZ. Yes, sir.

The CHAIRMAN. Where is his home?

Mr. RABINOVITZ. Milwaukee, Wis.

The CHAIRMAN. So, he has been coming into your office just to kind of look after your clients and take care of things the best he could during your absence?

Mr. RABINOVITZ. That is correct.

The CHAIRMAN. And he is the one that contacted Mr. Deis and procured the affidavit?

Mr. RABINOVITZ. That is what I understand.

The CHAIRMAN. All right; Senator Curtis.

Senator CURTIS. What is his first name?

Mr. RABINOVITZ. Leonard.

Senator CURTIS. How do you spell the last name?

Mr. RABINOVITZ. Zubrensky.

Senator CURTIS. With whom is he associated in the practice of law?

Mr. RABINOVITZ. He is associated with Max Raskin.

Senator CURTIS. What position does Max Raskin, if any, hold in reference to the UAW?

Mr. RABINOVITZ. Max Raskin is the regional attorney for the UAW-CIO.

Senator CURTIS. And it was his associate who went down there?

Mr. RABINOVITZ. I am not so sure what his association is, Senator. I know he has office space in Max Raskin's office. I am sure they are not partners or anything like that.

Senator CURTIS. Mr. Rabinovitz, did you talk to anyone about the securing of this affidavit?

Mr. RABINOVITZ. I spoke to Leonard Zubrensky, and told him that we were attempting to obtain as many affidavits as we could of inside deputies, outside deputies, wounded people, spectators, anybody that knew anything about the 1934 strike. As Mr. Rauh has previously stated, we intended to have our day of a line of witnesses. To shorten the testimony—

Senator CURTIS. Well, where did you—

Mr. RABINOVITZ. Let me finish. I would like to answer your question.

Senator CURTIS. I asked you if you had a conversation with him.

Mr. RABINOVITZ. What is that?

Senator CURTIS. I asked you if you had a conversation with him about this affidavit.

Mr. RABINOVITZ. Yes; I did.

Senator CURTIS. Where was that conversation?

Mr. RABINOVITZ. On the telephone.

Senator CURTIS. You called from where?

Mr. RABINOVITZ. From Washington.

Senator CURTIS. Where was he when you called him?

Mr. RABINOVITZ. I think I called my girl, first, my secretary, and told her to get Lenny to come to Sheboygan, and I think I then called him and spoke to him at my office.

Senator CURTIS. For whom was he employed when he secured this affidavit?

Mr. RABINOVITZ. Employed by me.

Senator CURTIS. He is not employed by the UAW?

Mr. RABINOVITZ. No. He is working for me.

Senator CURTIS. That was after you came down to Washington?

Mr. RABINOVITZ. The affidavit is dated March 12. I would say 2 or 3 days before March 12.

Senator CURTIS. Did you tell him what you wanted him to do?

Mr. RABINOVITZ. Yes.

Senator CURTIS. In that conversation, did you mention John Deis?

Mr. RABINOVITZ. Yes; certainly.

Senator CURTIS. What did you say about John Deis?

Mr. RABINOVITZ. Well, I told him—this is just a series of affidavits. I told him to get an affidavit from John Deis, John Steiber, Art Bauer, Art Fox, Lee Blandon, and I may have missed 1 or 2, and I said, "We need these affidavits for presentation to the McClellan committee through Leo Breirather, this being a substitute for our day." I told him to call in Deis and talk to him, get all the facts, and then make an affidavit and have it mailed to me.

Senator CURTIS. How did you know that Mr. Deis was not going to say what he said in 1935, that he didn't know who shot him?

Mr. RABINOVITZ. Until this matter came up the other day, Senator, I wasn't aware—at least, I probably knew at the time—I didn't know until the matter came up before the committee here a few days ago that Mr. Deis had given testimony in 1935.

Senator CURTIS. Well, Mr. Deis testified at that time that you were his attorney.

Mr. RABINOVITZ. If you will note, and you have a copy there, Senator, if you will note the attorneys, I was not present at the hearing. Mr. Joe Padway was represented by an A. G. Goldberg, who was a nephew and associated with Mr. Padway. I was the attorney for A. F. of L. Federal Labor Union 18545 in the 1934 strike. I assume John Deis and all the other strikers considered me as their attorney. But I was not—

Senator CURTIS. He didn't bring you his doctor bill?

Mr. RABINOVITZ. Yes; he brought me. I am sure he did. If he said so, he did.

Senator CURTIS. Who were the other attorneys representing John Deis?

Mr. RABINOVITZ. There was only one attorney. Joseph Padway, office. And this I just learned when I got this in the mail the other day, that Joe Padway was represented at the adverse hearing by A. G. Goldberg, his nephew.

Senator CURTIS. Who is Goldberg's uncle?

Mr. RABINOVITZ. Joe Padway is an uncle of A. G. Goldberg.

Senator CURTIS. Where does Fitzgerald fit into this picture?

Mr. RABINOVITZ. I didn't say Fitzpatrick. I said Goldberg.

Senator CURTIS. Or Fitzpatrick?

Mr. RABINOVITZ. No, he said Bino. He couldn't pronounce my name, if you will look at the testimony. He had difficulty pronouncing my name at that hearing.

Senator MUNDT. Will the Senator yield a moment?

Senator CURTIS. Yes.

Senator MUNDT. This afternoon, Mr. Rabinovitz, Mr. Deis said he was represented by Mr. Fitzpatrick.

Mr. RABINOVITZ. No, he didn't. Padway, he said. He said Padway was his lawyer.

Senator MUNDT. Didn't you say Mr. Fitzpatrick?

Mr. DEIS. Fitzpatrick.

Senator MUNDT. Who did you say, Mr. Deis?

Mr. DEIS. Fitzpatrick.

Senator MUNDT. I am trying to figure it out.

Mr. RABINOVITZ. I don't think he is saying that. His lawyer was Padway, Senator.

Mr. DEIS. That is what I mean, sure.

Senator CURTIS. Did you mean Padway and not Fitzpatrick?

Mr. DEIS. No, that is what he says here. That is right.

Senator CURTIS. You were associated with the case, Mr. Rabinovitz, in 1935, weren't you?

Mr. RABINOVITZ. This particular lawsuit?

Senator CURTIS. Yes.

Mr. RABINOVITZ. I was associated with everything that had to do with the 1934 strike in behalf of the union. In connection with this case, I procured hundreds of affidavits, let me explain this, at one time, not knowing what we would use the affidavits for. Then Mr. Padway was retained by these people to start the lawsuits.

I furnished all of these affidavits or some of them to Mr. Padway. Being a local resident I am sure that these people brought their doctor bills to me and I am sure I turned them over to Mr. Padway in helping him with this case.

Senator CURTIS. At the time the case was filed, or before that, had you talked with John Deis about his case?

Mr. RABINOVITZ. I can't remember that.

Senator CURTIS. Had you taken his affidavit?

Mr. RABINOVITZ. I may have. I don't find any in my file. I looked for one. I had my girl in Sheboygan look and she can't find any.

Senator CURTIS. Was there any surprise to you in 1935 when John Deis said under oath that he didn't know who shot him?

Mr. RABINOVITZ. Well, Senator, I wasn't there, and I didn't hear him say it. But let me tell you this: It was no surprise to me to have either John Deis or any of these plaintiffs say the things they did, because of the great amount of fear that existed in that community. These people were afraid to speak up concerning any subject that dealt with the Kohler Co. Today these people are speaking up because they are not fearful any more.

Senator CURTIS. But, now you were one of the attorneys for this gentleman, who filed a lawsuit.

Mr. RABINOVITZ. I was not one of his attorneys and did not file a lawsuit.

Senator CURTIS. He said you were.

Mr. RABINOVITZ. The record shows I was not his attorney. I explained to you before, Senator, all of these people considered me as their attorney because I was attorney for the union, but in this specific case I was not the attorney of record, I did not prepare the pleadings, I did not attend the hearings.

Senator CURTIS. I have read all of his testimony, and there is nothing to indicate that Mr. Padway or anyone else expressed surprise at his statement that he didn't know who shot him.

Mr. RABINOVITZ. Mr. Padway nor Mr. Goldberg didn't testify. But remember this, Senator, he was working for a municipality at the time, for the city of Sheboygan, and if he had identified Conger and Biever he would have lost his job at that time.

Senator CURTIS. I know, but any lawyer filing a lawsuit, who represents a plaintiff, and who has very vital information that fixes a liability on the defendant, and his client gives different testimony in a hearing in connection with it, the subsequent cross-examination is going to be an attempt to correct the erroneous statement. There is no such thing in this deposition.

Mr. RABINOVITZ. Senator, this is an adverse examination under the Wisconsin law. It is a cross-examination by a defendant. It is an adverse examination. The opposing counsel cannot cross-examine, because it is cross-examination at its inception. All that the opposing counsel under our statutes can do is to ask some questions to clarify or interpret some of the testimony. Opposing counsel cannot ask questions.

Senator CURTIS. You did tell this associate, or the gentleman who came down and helped you in your office, that they should get in touch with John Deis?

Mr. RABINOVITZ. I told him to get in touch with John Deis and 5 or 6 other people and prepare these affidavits for Leo Breirather's testimony.

Senator CURTIS. Were you then mindful of the fact that John Deis had given testimony in 1935?

Mr. RABINOVITZ. Senator, I found out, at least I was made aware of the fact, that he had given testimony the day you or Senator Mundt brought the matter up. At the time I asked Mr. Zubrensky to get the affidavit, I was not aware of any testimony at any previous hearing.

Senator MUNDT. Will the Senator yield?

Senator CURTIS. Yes.

Senator MUNDT. Mr. Rabinovitz, under the circumstances, and taking everything that you say at face value, which I do, don't you really feel that in view of the fact that this poor fellow has been here now all afternoon, trying to recall what he signed in an affidavit which he cannot read, and which is a direct contradiction with previous testimony that he made under oath, and the fact that it now appears that he is trying to state in his affidavit as best as he can understand the questions and answer them because of a language difficulty, that he was shot from behind in the dark at a time when his eyes were filled with tear gas, but still he is sure he saw the man who shot him, don't you really feel as a lawyer that the best thing to do is to withdraw this affidavit from the evidence and let us go on with the other work of the committee?

Mr. RABINOVITZ. Senator, there is no testimony here that his eyes were filled with tear gas. I heard it. You weren't here. You came in late.

Senator MUNDT. He said it.

Mr. RABINOVITZ. There is no testimony here that he was in such a position that he could not identify his assailants, and, besides that, I have given strict instructions to my girl, the notary public when I am around and when I am not around, that no papers may be notarized in my office unless the person reads them if he can read, or it is read to him so that that person unmistakably understands what is in the affidavit, and then my girl is instructed to sign the affidavit as a notary public.

I am satisfied that this man is telling the truth completely today. This man is an honest person. He was not in a position to tell the facts in 1935 because of the terrible condition that existed in that community, and partly still exists today.

Senator CURTIS. You are satisfied that he is telling the truth today?

Mr. RABINOVITZ. I am satisfied that he told the truth under the affidavit and is telling the truth today.

Senator CURTIS. They are contradictory, you realize that?

Mr. RABINOVITZ. I know what you mean.

I still say that he is telling the truth today, and told the truth under the affidavit. There is nothing inconsistent.

Senator CURTIS. Today, he positively stated that Mr. Biever and Mr. Conger shot him. In his affidavit there are these words and I am not lifting them out of context, "But could not say which ones or whether all four were shooting at him." Today he is explicit that it couldn't be the other two. Do you stand on your statement that he is telling the truth today?

Mr. RABINOVITZ. I am standing on my statement that he told the truth under the affidavit and is telling the truth today. If you will notice the last phrase, he says "Except that they did shoot him."

He certainly could mean 2 or could mean all 4.

Senator CURTIS. Yes, but he also says that he could not say which ones.

Mr. RABINOVITZ. And I think he explained that.

Senator CURTIS. Well, the fact remains that on March 12 he says "But could not say which ones."

Today he did positively say which ones.

Mr. RABINOVITZ. I am satisfied this old gentleman would not raise his hand here and swear to tell the truth unless he told it to this committee here this afternoon.

Senator CURTIS. I am not critical of Mr. Deis. That is the reason that I want to know more about the preparation of this affidavit.

Senator MUNDT. Before we leave that, I didn't quite get an answer to my question from Mr. Rabinovitz. I would like a yes or no answer, because it seems to me that we have spent a whole afternoon discussing an affidavit with a witness who quite apparently, to everybody in this room, doesn't understand the questions, doesn't answer them, because of a language difficulty.

He is testifying that he couldn't read the affidavit but had an affidavit read to him, and then he signs it, which may or may not be accurately read, and certainly he may or may not have understood it accurately, because he couldn't understand the questions that he tried to reduce down to monosyllabic words.

I don't really believe, Mr. Rabinovitz, that the position of the UAW in these hearings is so desperate that you have to rely on such affidavits at this time.

Mr. RABINOVITZ. No, I am sure cases——

Senator MUNDT. Just a moment. I don't know whether these other affidavits that were submitted by Leo are as worthless as this one or not, but certainly this one that we have spent the afternoon on——

Mr. RABINOVITZ. I am sure——

Senator MUNDT. Just a moment. You will be able to answer the questions. The one that we have spent the afternoon on, there is no committee member and I don't believe any one in the country could give credence to, because this poor fellow is laboring under difficulty, and is trying to explain why his affidavit today and his testimony 19 years ago when the facts were fresh in his mind are completely contradictory.

Mr. Curtis points out that his testimony here completely contradicts what he said in the affidavit. I think it would facilitate the whole procedure simply to withdraw this affidavit and let's forget about it,

and go on with a hearing which can be based on something which is a little more demonstrably true of both, than try to struggle with this fellow, who is trying to do his best, which simply is not making anything clear at all.

Mr. RABINOVITZ. He may have not made it clear to you, Senator, but, first of all, the case presented here by the UAW, under much difficulty can rest on its merits, and I think the merits have been established. We are not depending for the merits on our case on this one affidavit.

Senator MUNDT. This seems to me to be a tremendous waste of the committee's time.

Mr. RABINOVITZ. You want an answer to your question.

This affidavit was obtained in good faith by a very honorable attorney, by a very reliable secretary, and whether he read it himself or it was read to him is immaterial. We lawyers make many affidavits for people that can't read English, and yet they can be reliable.

I certainly hope that you are not casting any reflection upon the reliability of the man, the attorney, or the stenographer or the notary that took this affidavit.

Senator MUNDT. If you will yield at that point, I want to keep the record straight. I am not trying to question the reliability of your associate in the UAW who got this man's affidavit. I am pointing out that it is crystal clear that this poor chap couldn't understand his reading of the affidavit any better than he could understand the English language when we are trying to ask him questions, so there isn't any way in the world that he could understand what is in the affidavit, because he couldn't answer the simple questions, because he said he couldn't comprehend them, and I think he is telling the truth.

When you are imposing an affidavit upon a man of that type, I say the position of the UAW is not so desperate that we have a whole afternoon in discussing what must be a worthless affidavit, but simply withdraw it and forget about it. You said, and I take your word for it, that at the time you solicited the affidavit you did not recall the fact that the same man had made out depositions and appeared under court proceedings in which he gave contradictory evidence. I feel confident, sir, that had you known it then, you would not have put the committee to all of this laborious work by imposing this new affidavit to contradict those statements.

Mr. RABINOVITZ. Senator, if I had known what testimony he gave in 1935, and had he given me the explanation he gave to Mr. Kennedy and Senator McClellan today, I still would have taken his affidavit as the truth and a verity, and the same applies to his testimony.

The man explained why he gave the kind of testimony he did in 1935. I can tell you that he does not stand alone. There were dozens and hundreds of others that concealed the true facts in 1935 because of the fear of this company.

Senator MUNDT. If you have others, I would suggest again that you withdraw the affidavit from this fellow and get us the affidavit from somebody that we can cross examine, who can understand the questions, who is able to read the affidavit, who knows what it is all about.

You say something which the record does not substantiate. You said that he did not testify that he was wiping the tear gas out of

his eyes. He testified to that several times today when I was in the committee room, since I came in.

He testified several times that it was dark, so dark that he couldn't see at 35 whether a Brotz boy was carrying a tear-gas gun, a shotgun or a rifle. I knew something about guns, and it has to be pretty dark when at 35 feet you can't tell what kind of weapon it is.

All of those things are in the record. You are saying they are not there will not eliminate them, so they will not bob up against you when you read the printed word.

Mr. RABINOVITZ. Senator Mundt, all of us do not have the advantage of an education. This man did not have it. But on the essential facts, on the fundamental and important facts, this man has been crystal clear this afternoon.

Senator CURTIS. Mr. Chairman?

The CHAIRMAN. Senator Curtis.

Senator CURTIS. I will try to be brief, Mr. Chairman.

Mr. Rabinovitz, you have known Mr. Deis for a long time, haven't you.

Mr. RABINOVITZ. I no doubt knew him in 1934. When I saw him today I recognized him again. I have seen him on the streets in Sheboygan many times. I do not believe I knew his name was Deis. I now know his name is Deis and I now recognize him. But I haven't seen him in the intervening years.

Senator CURTIS. He always called you by your first name?

Mr. RABINOVITZ. All the strikers call me by my first name.

Senator CURTIS. When this deposition was taken back in 1934, you replaced Mr. Padway in that, didn't you?

Mr. RABINOVITZ. Replaced him? No, I was always the attorney for the Kohler local.

Senator CURTIS. For Mr Goldberg, I mean. Didn't you appear at the taking of these depositions the day following Mr. Deis' testimony.

Mr. RABINOVITZ. I have no personal recollection. If there are any records showing that I did appear, then I did. I have no recollection of having appeared at any of these hearings.

As I told you, I didn't have any recollection of a hearing until the other day.

Senator CURTIS. I am informed that the record shows that they were taking the testimony of a number of witnesses, and the day following you replaced Mr. Goldberg.

Mr. RABINOVITZ. That is all possible, Senator. If the record shows it, then it is true.

(At this point, Senator Ervin left the hearing room.)

Senator CURTIS. So you were in the case?

Mr. RABINOVITZ. I was assisting Mr. Padway, all for free.

Senator CURTIS. The other day, after you said you had been sworn, we have this testimony:

Senator CURTIS. Did you assist in the preparation of the affidavit of John Deis? Is that the way you pronounce it?

Mr. RABINOVITZ. I did not.

Mr. RABINOVITZ. Read that question again, please.

Senator CURTIS. Senator Curtis: Did you assist in the preparation of this affidavit—

Mr. RABINOVITZ. That is the Deis affidavit?

Senator CURTIS. —of John Deis? Is that the way you pronounce it?

Mr. RABINOVITZ. I did not.

You did assist in it, did you not?

Mr. RABINOVITZ. No, I had nothing to do with the drafting or the interviewing of Mr. Deis, nor the drafting of the affidavit.

Senator CURTIS. But you did make a telephone call and direct somebody to do it. You said today they were working for you and you also testified today that you mentioned John Dies.

Mr. RABINOVITZ. In that respect, Senator, I did assist, but I did not assist in the actual physical drafting of the affidavit.

Senator CURTIS. The question was not the drafting.

Did you assist in the preparation of this affidavit of John Deis?

ANSWER. I did not.

Mr. RABINOVITZ. When we talked about drafting an affidavit, Senator, it means at least interviewing the person and dictating and taking notes, and I did nothing of that kind.

Senator CURTIS. But preparation and drafting are not synonymous.

Mr. RABINOVITZ. Well, you have my testimony now that I did call and I did instruct Mr. Zubrinski to obtain this affidavit.

Senator CURTIS. And you did not disclose that the other day, did you?

Mr. RABINOVITZ. I was not asked that question.

Senator CURTIS. I asked you if you assisted in the preparation of the affidavit and you said, "I did not."

Mr. RABINOVITZ. Well, Senator—

Senator CURTIS. The truth is that it was your agent that you paid to get the affidavit and you told him to do it.

Mr. RABINOVITZ. It was the truth then and it is the truth today.

Senator CURTIS. I do not know why you said that you did not assist him.

Mr. RABINOVITZ. You were seeking information as to who drafted this affidavit.

Senator CURTIS. I never used the word "drafted" at all.

Mr. RABINOVITZ. Wait. You wanted to know who was responsible for this affidavit. You saw the name Mona Methfessel. The committee did not know who she was. You asked me that question and I told you the truth then and I am telling you the truth now.

Senator CURTIS. Yes, but we also wanted to get the truth as to the paternity of that.

Mr. RABINOVITZ. You did not ask me any question like that.

Senator CURTIS. I asked you, "Did you assist in the preparation of this affidavit of John Deis?" and you said, "I did not."

Mr. RABINOVITZ. Well, the record speaks for itself.

Senator CURTIS. Now, it seems that you directed the preparation of this affidavit.

Mr. RABINOVITZ. Right. That is right.

Senator CURTIS. Then I said—

Was it prepared in your office?

Mr. RABINOVITZ. I understand it was.

The facts are, you called your office and talked to your girl about this and you either had her call the attorney employed or you called him. You knew it was prepared in your office, did you not?

Mr. RABINOVITZ. I gave instructions to have it prepared. It was mailed to me and I certainly understood it was prepared in my office and I so told you.

Senator CURTIS. But you knew it was prepared in your office?

Mr. RABINOVITZ. Yes, and I did not deny it the other day either.

Senator CURTIS. You said, "I understand it was."

Mr. RABINOVITZ. You are dealing with a matter of semantics, Senator, and I do not quite follow you. If a person says, "I understood something," he certainly means that it did occur and did happen. That is what I told you and I tell you the same thing now.

Senator CURTIS. Why did you select Deis as one of the individuals to secure an affidavit from when you have not seen him since 1935 and did not know his last name?

Mr. RABINOVITZ. Because a survey was made by people from the union concerning the entire 1934 strike. They interviewed—I would guess—about 100 people, or more. This was done by Karl Kutnick and Bob Treuer.

As a matter of fact, I visited one person at home who is unable to be here because of illness and who had a good recollection, a good story, to tell this committee. We decided that we would use those persons who had the most facts, the best facts, the most accurate facts to present to this committee. John Deis was one of them. There are others. We have three more people in this room. We have Rudy Renn, who was the chief picket captain in the 1934 strike, who has an excellent story to tell this committee.

We have Émil Schuette, who was at that time a member of the National Guard, who picked up empty shells on company property, and we have a third person here who can also tell a story relative to Mr. Biever.

Senator CURTIS. You would have been much more helpful, Mr. Rabinovitz, if, when I asked you if you assisted in the preparation, if you would have given me a full account at that time, stating that you did hire somebody to do it, that you made telephone calls, that you specifically mentioned Mr. Deis.

Mr. RABINOVITZ. Senator, if you had asked me the same questions then as you asked me today, you would have gotten the same answer as you got today. But you did not see fit at that time to ask those questions. I answered them truthfully then, and the same now.

Senator CURTIS. No. I asked you, "Did you assist in the preparation?" In preparing an affidavit you have to call your witness, you have to take a statement, somebody else has to type it, and a notary public has to receive the acknowledgement.

Certainly, the person who directs that it be done is assisting in the preparation. You informed this committee that you did not.

Mr. RABINOVITZ. I did not. That is not a correct statement.

Senator CURTIS. You did not say that?

Mr. RABINOVITZ. I did not deny to this committee that I had assisted, that I had anything to do with the preparation of this affidavit. Your question at that time was directed to the matter of the preparation of the affidavit, and I still say I had nothing to do with the preparation, except to direct the person to make it, but not actually to assist in the preparation.

Senator CURTIS. But you did assist in that way?

Mr. RABINOVITZ. I assisted in getting the attorney to call Mr. Deis in. I instructed my girl to do the notarizing. But I did not assist in the actual preparation of the affidavit.

Senator CURTIS. Without your assistance there would never have been any affidavit, would there?

Mr. RABINOVITZ. Without my direction, you mean.

Senator CURTIS. Yes, we will call it that.

Mr. RABINOVITZ. I was of very little assistance, Senator. I did not speak to this man. I did not recognize him until I saw him here in Washington today. So I could not have been of much assistance at this considerable distance from Sheboygan.

Senator CURTIS. When was this survey made?

The CHAIRMAN. Let the Chair make this observation.

Maybe we can hurry it along. According to your testimony, you assisted in procuring the affidavit and directed the procuring of it?

Mr. RABINOVITZ. That is correct.

The CHAIRMAN. The preparation of it, as I understand, you were not there, you did not see it prepared, you gave no instructions at the time it was prepared.

Mr. RABINOVITZ. That is right.

The CHAIRMAN. But you did procure it.

Mr. RABINOVITZ. That is right.

The CHAIRMAN. You were the one who started it in motion, the action to get an affidavit from this man?

Mr. RABINOVITZ. True.

The CHAIRMAN. That is correct?

Mr. RABINOVITZ. Absolutely true.

(At this point, Senator Mundt withdrew from the hearing room.)

Senator CURTIS. When was this survey made?

Mr. RABINOVITZ. This survey and compilation of the 1934 strike was commenced by the union about 5 or 6 months ago.

Senator CURTIS. Were you aware that Deis had been interviewed?

Mr. RABINOVITZ. I was given a copy of the interviews that were made by this committee and I believe I probably knew that Deis was interviewed; yes.

(At this point, Senator McClellan withdrew from the hearing room.)

Senator CURTIS. Did you read the interview?

Mr. RABINOVITZ. Yes, I did.

Senator CURTIS. Did you have a copy of it?

Mr. RABINOVITZ. I have it right here.

Senator CURTIS. What is the date of it?

Mr. RABINOVITZ. There is no date on it, Senator. I could ascertain what the date is very easily, but I looked for the date, and I do not find it.

Senator CURTIS. Would you read it?

Mr. RABINOVITZ. Will I read the whole thing? It is two pages.

Senator CURTIS. Go ahead.

Mr. RABINOVITZ. It starts out with "Wounded No. 12."

Deis, John—statement to Karl Kotnick and Bob Treuer. Lives at 1429 Erie Avenue, Sheboygan. Phone Gl 2-0686.

Striker in 1934. Fired in September 1933 after joining AFL by Herziger. Went out to Kohler about 11 a. m., spent some time at strike kitchen. Picketed at employment office, returned to kitchen for lunch, then resumed picketing.

Captain Schuelke and deputies came around about 2 p. m. to "disarm" pickets. About 7:40 in the evening was hit on the head by a rock thrown from top of employment office, where a group of deputies, blackshirts, were. The second floor and roof of the employment office were filled with deputies. Rocks and eggs were thrown at the pickets by the deputies.

Then Mike Widra, another picket, was hit on the head by a club thrown from the roof of the office. Mike shouted up: "Sakrament, what's the matter mit you?"

There were shots from the employment office which went over their heads. Most of the crowd had left, and he said to Big Mike that they ought to get out of there. They walked up to the main office picket line, and found the pickets lying on the ground to avoid being shot. Most of the shooting there came from the American Club area. They agreed to get out, and began to move.

Across the road, on the sidewalk in front of the American Club, he saw a group of four deputies carrying guns. He recognized them as Ed Biever, Lyman Conger, William Runge, and John Raml. These four shouted over for the pickets to get out, and followed along on the sidewalk as the pickets headed north across the street.

As they passed the Brass Road, Deis heard a single shot and a woman scream something about "they shot Engelman." He thinks that the shot was from the direction of the group of four deputies that Biever was in. It was dark and he could not make them out clearly in the confusion.

Deis had first seen the Biever group near the water bubbler in front of the American Club. When he was out in High Street near Badura's shoestore, he was once again confronted by the same four deputies. Deis says he shouted at them, "What for you want to murder somebody?"

There was an exchange of words, and then Deis states that he pulled off his coat, rolled up his sleeves and shouted at them, "You guys, when you want to fight, come out here and fight with your bare hands."

One of the four deputies—Deis does not know which one—shouted back, "You wait,———, we'll show you something!" Deis bent down to pick up his coat, and received shotgun blasts in his head and leg. Some 45 to 50 pellets were later dug out of his head and legs, his work cap was hot to pieces. He was taken to the clinic.

Senator CURTIS. That word is "shot"; I think.

Mr. RABINOVITZ. They probably meant "shot." It reads "hot."

Deis says he is positive that he was shot by the four deputies, Biever, Conger, Runge, and Raml, and that he caught sight of them shooting him as he bent over for his coat, but could not say which ones, or whether all four, were shooting at him, except that they did shoot him.

Deis said that he just simply could not stay at his post on the picket line any longer than he did because of the rocks and clubs. He saw the machinegun on top of the Brass Building, and there was a terrible amount of confusion, tear-gas smoke, shooting before he left his picket post. He was one of the last pickets out of the village.

That is the end of the statement. This is not a notarized statement but was part of a survey that was made by Karl Kutnick and Bob Treuer, who were assigned to this task and also interviewed many strikers who were company guards in 1934, village deputies who are now members of the union, spectators, and anybody that could tell them something about the 1934 strike.

Senator CURTIS. When did you first see that statement?

Mr. RABINOVITZ. I saw so many documents, Senator, in the last few months. A month or two ago, probably, maybe 2 months.

Senator CURTIS. Then, when you called upon the phone to direct that they get Deis' affidavit, you knew what would be in it?

Mr. RABINOVITZ. I am sorry, I did not hear you.

Senator CURTIS. Then, when you called up and directed the taking of Deis' affidavit, you knew what would be in it?

Mr. RABINOVITZ. No, I did not. I instructed Mr. Subrinsky and my office girl that she should call in Deis and get a complete interview from him. I had some idea what would be in it; yes, sir.

Senator CURTIS. But you had read that statement?

Mr. RABINOVITZ. Yes, I did.

Senator CURTIS. You said a little while ago you did not know what his affidavit would attest.

Mr. RABINOVITZ. That is true. I did not know what the affidavit would contain. This was to be a completely new interview by this attorney of this person.

I told them to get the truth and the facts and tell Mr. Deis to tell the truth, and that is what we wanted.

Senator CURTIS. But you told us you did not know what he would testify to, and here it develops that you had made a survey.

Mr. RABINOVITZ. I did not make the—

Senator CURTIS. And you have this undated document, which you had seen 2 months ago?

Mr. RABINOVITZ. I had a pretty good idea what he would testify. I read this document. I read the affidavit.

Senator CURTIS. But that was not your testimony earlier today.

Mr. RABINOVITZ. I do not know what you are referring to, Senator.

Senator CURTIS. Earlier today you said you did not know what his affidavit would attest to.

Mr. RABINOVITZ. I did not know what would be in the affidavit. I had a pretty good idea of what would be in it, but I did not know the exact verbiage of it.

Senator CURTIS. That is why I do not think that your appearance has been as helpful as it ought to be. You were asked if you assisted in the preparation and you said, "I did not."

QUESTION. Was it prepared in your office?

ANSWER. I understand that it was.

That implies something other than direct knowledge.

Mr. RABINOVITZ. Senator, when I got through testifying, I am sure you were satisfied that it was prepared in my office. You saw my name on the document. Every time I was called impromptu or otherwise before this microphone, I have tried to be helpful and am now, and will continue to be.

(At this point, Senator Goldwater withdrew from the hearing room.)

Senator CURTIS. You left me with the impression that you had nothing to do with it.

Mr. RABINOVITZ. No, I did not.

Senator CURTIS. But that you understood that somebody had prepared it in your office.

Mr. RABINOVITZ. I am sorry if you gained that impression. The record does not justify that.

Senator CURTIS. I submit that it does.

It is still your belief that he is telling the truth today?

Mr. RABINOVITZ. I sure do.

Senator CURTIS. Even though he says today he does not know which 1 of the 4 people shot him?

Mr. RABINOVITZ. I am sure he explained that adequately.

Senator CURTIS. Is there any variation between the survey and the affidavit?

Mr. RABINOVITZ. I have not had a chance to compare it. I could look at it right now.

Senator CURTIS. Were stenographic notes taken of that interview and your survey?

Mr. RABINOVITZ. I did not make the survey, I did not make the interview. I do not know.

Senator CURTIS. Did Mr. Subrinski take it?

Mr. RABINOVITZ. Mr. Subrinsky did not make the survey. The survey was made by Karl Kutnick and Bob Treuer.

Senator CURTIS. That is all, Mr. Rabinovitz.

TESTIMONY OF JOHN DEIS—Resumed

Senator CURTIS. Mr. Deis, when the attorney interviewed you in Mr. Rabinovitz' office and asked you questions about this, did they have a stenographer take down what you said?

Mr. DEIS. Yes, sir.

Senator CURTIS. Mr. Rabinovitz, would you produce those stenographic notes for us?

Mr. RABINOVITZ. I was busy. I did not hear the question.

Senator CURTIS. He testified that when he was interviewed by the individual carrying on your work, that they took down the testimony in shorthand, a girl took it down. I asked would you get the stenographic notes.

Mr. RABINOVITZ. If there are such notes, I shall call my girl and have them sent to this hearing.

Senator CURTIS. That is all, Mr. Chairman.

The CHAIRMAN. Are there any further questions of either witness?

Senator CURTIS. Mr. Chairman.

The CHAIRMAN. Senator Curtis?

Senator CURTIS. I wonder if we could have this deposition offered for the record.

The CHAIRMAN. It has been testified to here. It may be made exhibit 127.

(The document referred to was marked "Exhibit No. 127" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Exhibit 127 is for reference, both exhibits 126 and 127.

Is there anything further of this witness?

Mr. KENNEDY. Thank you very much.

The CHAIRMAN. The committee will recess.

In the morning, we will have one witness. He will be a witness from the National Labor Relations Board. We will have to hold that hearing in the morning in room 357. I hope we can get back in here tomorrow afternoon.

It is anticipated we will hear Mr. Kohler tomorrow afternoon and hear Mr. Reuther on Thursday. I hope we can get back into this room tomorrow afternoon. But we will not know until noon tomorrow.

In the morning, we will resume at 11 o'clock in room 357.

(Whereupon, at 4:45 p. m., the hearing in the above-entitled matter was recessed to reconvene at 11 a. m., on the following day.)

(Members of the select committee present at the taking of the recess were Senators McClellan and Curtis.)

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